

Volume 22

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

BEFORE THE HONORABLE MAXINE M. CHESNEY, JUDGE

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)  
MARYLON BOYD, individually )  
and as Executor of the Estate )  
of CAMMERIN BOYD, deceased, )  
et al., )

Plaintiffs, )

v. )

No. C 04-5459 (MMC)

)  
CITY AND COUNTY OF )  
SAN FRANCISCO, et al., )

Defendants. )

San Francisco, California

Wednesday

September 19, 2007

TRANSCRIPT OF PROCEEDINGSAPPEARANCES:

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BY: BLAKE P. LOEBS  
SCOTT WIENER  
ERIN BERNSTEIN

1 Wednesday, September 19, 2007

2 (9:00 a.m.)

3 (In open court; jury not present)

4 MR. WIENER: I think we resolved the time issue.

5 THE COURT: Miss Lucero just stepped out, but I intend  
6 to ask the question about it.

7 MR. WIENER: Okay.

8 (The jury entered the courtroom)

9 THE COURT: Good morning, ladies and gentlemen.

10 Mr. Kubo, thank you very much. I think it was your --

11 JUROR: Girlfriend.

12 THE COURT: -- who catered us this morning.

13 Ladies and gentlemen, I want to talk to you for a  
14 moment about our schedule. I assume, being generally  
15 perceptive people, you have noticed that somewhere along the  
16 way we seem to have lost some steam here in getting to our  
17 final destination in timely fashion. It is almost a certainty  
18 that the evidence will finish this week, but what I was  
19 concerned about is that we had intended to complete the trial  
20 this week, and from what I can tell at this point, it appears  
21 that we may have to go into next week, and I want to find out  
22 how that affects various members of the juror in particular.  
23 And also to see whether you would prefer, if we can use Friday,  
24 to use Friday of this week, or whether your situations are such  
25 that you would find that difficult to do.

1 I think at the beginning we had indicated that if the  
2 jury were deliberating, that we would require attendance on  
3 Friday. I don't think you'll be deliberating on Friday --  
4 there's a possibility, but, frankly, I think it would be more  
5 likely that it would be arguments or finishing arguments on  
6 Friday and possibly instruction. What I'm perceiving is that,  
7 in all likelihood, at least Monday of next week would have to  
8 be used. Maybe not more than Monday, but at least Monday.

9 Now, with that kind of situation, let me just ask if  
10 there's anyone who has a particular commitment in the coming  
11 week that's going to be affected by the delay or extension on  
12 the trial.

13 JURORS: (Shaking heads)

14 JUROR NO. 6: Next week?

15 THE COURT: Next week.

16 JUROR NO. 8: And including Friday.

17 THE COURT: Right now, we're just talking about Monday  
18 because I picture that the jury, even in the best of  
19 circumstances, would probably be deliberating on Monday.  
20 Everything could pick up and move along in some zippy fashion,  
21 but I can't predict that at this time. I feel very badly about  
22 this, particularly because you as a jury have been, in my  
23 experience, just about the best jury we've ever had in terms of  
24 punctuality, in terms of good humor, in terms of your  
25 congeniality amongst yourselves. You've been a model jury, and

1 I just wish I could duplicate you for every trial, and I'd like  
2 to do something to be rewarding instead of imposing upon you  
3 another burden, from our standpoint, not keeping our commitment  
4 to you.

5 So the first question was about Monday. The next  
6 question is whether it would be appropriate to use Friday if we  
7 can. If you feel that that would be a benefit, and I think you  
8 may have blocked that out in some way, you know, based on what  
9 I told you earlier, but if for any reason our going over to  
10 Monday makes it better for us not meeting on Friday, then we  
11 would consider not meeting on Friday.

12 Otherwise, what I'm going to try and do is those  
13 matters we hold on Friday is moving them to some point that is  
14 less intrusive as far as our trial, either get them early, all  
15 packaged up earlier in the morning and start our trial maybe at  
16 9:30 instead of at 9:00, or try to move them to other days. Do  
17 anything we can. We can't move the criminal calendar. But to  
18 do anything that we can on the civil matters that are scheduled  
19 for Friday to try to get them out of the way of this trial.

20 And I didn't want to ask Miss Lucero to start making  
21 those efforts if anyone felt that Friday would be a problem for  
22 them. So --

23 JUROR NO. 1: (Raises hand)

24 THE COURT: Let's see where we are.

25 Miss Chan, yes.

1 JUROR NO. 1: I have alternative child care, and they  
2 leave next weekend back to Phoenix.

3 THE COURT: In other words, someone's been watching  
4 your children.

5 JUROR NO. 1: Yes.

6 THE COURT: And is there anyone that could cover for,  
7 you know, the short term that we're talking about?

8 JUROR NO. 1: I would have to ask.

9 THE COURT: Okay. Well, in your situation Friday  
10 would be better. Anything we can do Friday?

11 JUROR NO. 1: Yes.

12 THE COURT: And as I say, I had intended that we use  
13 Friday -- I was expecting that we would go to the jury, the  
14 case would go to you toward the middle to end of this week and  
15 you would be deliberating perhaps on Friday, and then we'd be  
16 using Friday, but you still might have to come back Monday.  
17 That's what I wanted to just see if --

18 JUROR NO. 6: So if we come Friday, we'll still come  
19 back Monday?

20 THE COURT: You'd still probably have to come Monday.  
21 I'm not positive. I mean, it's a gamble in the sense that  
22 maybe we could wrap it up this week. As I say, at the end of  
23 today, we're going to have the best idea of where this is going  
24 to finish up. But the -- we would have to start with respect  
25 to Friday at least trying to make those arrangements, probably

1 as soon as possible. So I think we should have Miss Lucero try  
2 to do that.

3 The worst thing is that it will be an effort that will  
4 not be fruitful. But we're going to try to do that, and then  
5 I, just as I say, I'm encouraging counsel to consider  
6 shortening wherever they can without feeling they're doing a  
7 disservice to their respective clients in that regard. And  
8 just try to keep as much as we can to the schedule.

9 So that's where we are at the moment. And if you want  
10 to think about it and after the break give us any additional  
11 information, that would be helpful.

12 And we will do everything we can to accommodate you,  
13 Miss Chan.

14 The one thing I don't think you would want, at this  
15 point, having spent six weeks in this trial, or we would want,  
16 is to lose you over a day's overlap, so to speak. You've just  
17 put so much into this. It would just be very disturbing if you  
18 couldn't see it through to conclusion.

19 So, okay. Keeping all that together and again with  
20 the Court's apologies for the situation, we're going to put  
21 Dr. Keram back on the stand and see how we're doing at that  
22 point.

23 This witness was previously sworn, need not be  
24 resworn. As soon as she's up here, you can begin, Mr. Wiener.

25 MR. WIENER: Thank you.

1 THE COURT: And also, Doctor, somewhere along the way  
2 here we've had the microphone fixed so that it can actually be  
3 moved at its base also. I saw you might have had to lean a bit  
4 yesterday. If you want to pull it towards you, you don't  
5 actually have to pull yourself to it, you can pull it toward  
6 you. It's movable.

7 THE WITNESS: Thank you.

8 THE COURT: Go ahead, Mr. Wiener.

9 MR. WIENER: Thank you, your Honor.

10 DIRECT EXAMINATION (cont'd)

11 BY MR. WIENER:

12 Q. Good morning, Dr. Keram.

13 A. Good morning.

14 Q. Before we pick up where we left off, I just wanted to ask  
15 you a brief question: Yesterday you had given, I think, one or  
16 maybe two examples of, generically without using the name, of  
17 something that a past patient had told you. In the psychiatric  
18 or the medical profession generally, do physicians who engage  
19 in research use examples in that manner, and can you describe  
20 what the rules are?

21 A. Yes, yes. Generally, for rules that we follow, whether  
22 we're publishing a study where it's a case description and  
23 we're giving factual information about a specific person; or  
24 we're teaching, whether, you know, we're giving a training in  
25 the medical profession or outside the medical profession, or

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1 whether we're testifying in this type of setting, the rules  
2 that we adhere to are set by what are called institutional  
3 review boards. Those are boards that are set up by the  
4 universities where we do research. And they set out guidelines  
5 that we adhere to for preserving patient anonymity and govern  
6 what types of information we can give, obviously we're all very  
7 concerned about patient confidentiality.

8           So, for example, if I were discussing somebody where  
9 they might be the only person who could be identified as the  
10 subset of people, let's say I was, you know -- I have a patient  
11 who's the mayor of the town that I live in, that type of thing,  
12 we wouldn't do. But if I have a patient who, you know, there's  
13 about 3,000 people in our clinic, and a large number of them  
14 have PTSD and have been door gunners, hundreds of them, in  
15 Vietnam, that type of thing, you would never be able to  
16 identify him, you don't know where he lives or, these are from  
17 Marin up to the Oregon border. You wouldn't be able to figure  
18 out who he was, that would adhere to the guidelines.

19           THE COURT: I want to clear up PTSD. Is it  
20 posttraumatic stress disorder?

21           THE WITNESS: Yes.

22 Q. I want to ask you some questions about how psychiatrists go  
23 about analyzing and evaluating the psychological state of mind  
24 of people who are now dead. In other words, going back to  
25 before they passed away and analyzing their state of mind



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1 despite the fact that they are no longer with us. Okay?

2 A. Uh-huh.

3 Q. When did -- is that sometimes referred to as a  
4 psychological autopsy?

5 A. Yes.

6 Q. When did researchers begin to describe a scientific method  
7 for analyzing the mental state or psychological state of  
8 deceased people?

9 A. In the 1950s. And it began in LA County. At that time, LA  
10 County had a large number of, a series of drug-related deaths,  
11 and the coroner, or I don't know if it was the medical  
12 examiner, was interested in determining whether or not these  
13 were suicides. So the coroner's office, the law enforcement  
14 agencies and a suicide prevention group got together and  
15 developed a way of analyzing in a very rigorous manner all of  
16 the cases to determine what the state of mind of the person was  
17 at around the time that they died. So that was the beginning  
18 of this type of investigation.

19 Q. And is this method of evaluating the mental state of  
20 deceased persons, is that something, a method that's generally  
21 accepted in the psychiatric profession?

22 A. Absolutely.

23 Q. Okay. And can you -- is there a literature surrounding  
24 psychological autopsies, or is it just generally the evaluation  
25 of the mental psychological state of deceased persons?

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1 A. Yes, there's a large literature in the medical literature  
2 on that. There's hundreds of articles that have been  
3 published. In addition, there are other groups besides the LA  
4 County group that has set protocols, and the protocols are  
5 really, for all practical purposes, identical. And those  
6 include the CDC, Centers for Disease Control, the United States  
7 Armed Forces, and other research groups.

8 Q. Can you describe the general methodology that you use or  
9 that is used in the profession to evaluate the psychological  
10 state of people who are deceased, not focusing specifically on  
11 suicide by police for the moment, but just the general  
12 methodology?

13 A. Sure. What you're trying to do is recreate the mental  
14 state of a person who you can't interview anymore. At a  
15 specific point in time. And the way we go about doing that is  
16 by collecting as much information about that person as is  
17 possible. Not just in the hours or days before the event that  
18 you're interested in, but going back as far as you can.

19 And so what we do is we collect information, lots of  
20 different types of information. We try to collect occasional  
21 records, occupational records. If they've ever been arrested,  
22 we look at arrest records, the entire criminal history. We  
23 look at medical records, mental health records. We look at  
24 really at anything we can find. We may have a private  
25 investigator interview family members, depending on, you know,

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1 if it's an insurance issue. We may review depositions if it's  
2 a legal issue.

3 So we're trying to find out as much about that person  
4 as we can to determine whether or not there is mental state  
5 evidence in all of that information. So if the issue is a  
6 suicide, what we're looking for is whether or not there is the  
7 presence of known risk factors for suicide. And then the other  
8 question would be, if those are present over the long term, we  
9 call those chronic risk factors for suicide, the question  
10 becomes, why now? Why would the person suicide now? So we  
11 look for what are known as acute risk factors, and then we  
12 examine the behavior of the person around the time of their  
13 death to see if that's indicative of actual intent for suicide  
14 at the time.

15 Q. In this process, this methodology of evaluating the mental  
16 state of deceased people, can you give some examples of the  
17 types of cases or situations in which psychiatrists engage in  
18 that analysis?

19 A. Probably the first two were -- where this became more  
20 generalized outside of the area of a coroner's investigation  
21 were in testamentary capacity; that is, you know, you always  
22 see them on television, you know: I, being of sound mind and  
23 body, write my will. The sound mind part comes if somebody  
24 contests a will after somebody died, did the person really have  
25 a sound mind at the time they wrote their will. So there's a

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1 protocol that's set for evaluating the person's mental state.  
2 You know, was there any undue influence? Did they know who  
3 their heirs would be? That type of thing.

4 The other would be insurance investigations where  
5 somebody has died, and perhaps there's a suicide clause in the  
6 contract that would include beneficiaries being paid if the  
7 person suicided. So assignments, either an insurance company  
8 or a beneficiary's attorneys, will consult us to do this exact  
9 same type of investigation to determine whether or not the  
10 person was suicidal.

11 There are many other types of examples that are very  
12 interesting. When the Armed Forces started their suicide  
13 protocol -- their psychological autopsy protocol in the wake of  
14 an accident that took place on the U.S.S. Iowa in the late  
15 1980s where a seaman essentially blew up a gun on a ship, about  
16 seven or eight soldiers were killed, and they wanted to know  
17 what had led to this behavior. So that began, you know, what's  
18 been a 20-year process of psychological autopsies.

19 Q. Okay. Moving specifically to suicide by police, I want to  
20 talk to you about what one does, what a psychiatrist does, in  
21 determining whether a particular episode counts or was a  
22 suicide by police or an attempted suicide by police. Can you  
23 just tell me, first of all, what does one look at in order to  
24 assess whether an episode was a suicide by police or attempted  
25 suicide by police?

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1 A. The first part of that I've already discussed. We collect  
2 all of the information that we can about the person, starting,  
3 you know, from their -- as early as we can go back onwards. So  
4 that's the same reference that I talked about before,  
5 educational, occupational, mental health, medical, so forth.

6 Then we rely on the literature, the peer-reviewed  
7 studies that have been published, that discuss what we refer to  
8 as indicators of behaviors consistent with suicide by cop, to  
9 see whether or not those are present in the behavior of the  
10 individual at the time of his death. We do the same type of  
11 analysis in looking at the "why now" question -- why would he  
12 precipitate this now?

13 But what distinguishes suicide-by-cop psychological  
14 autopsies from other types is relying on the peer-reviewed  
15 medical literature about the behavior of the individual  
16 associated with suicide by cop.

17 Q. You mentioned risk factors.

18 A. Uh-huh.

19 Q. What risk factors do you look for and why?

20 A. In suicide by cop specifically?

21 Q. Yes.

22 A. For people who are suicides, the reasons they might choose  
23 suicide by cop includes things like long prison sentences. So  
24 we look for that possibility. We look for the possibility of  
25 civil litigation for the beneficiaries. We look for that

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1 evidence. There's hostility towards law enforcement. This was  
2 mentioned in a study in the mid-'90s, looked for people who  
3 wanted to do psychological harm to officers. And in addition  
4 to those risk factors, we look at specific behaviors that are  
5 consistent with people who choose this method of suicide, and I  
6 can discuss those if you like, those specific behaviors.

7 Q. Sure. And what are those specific behaviors?

8 A. Okay. First of all, if you're going to choose suicide by  
9 cop as a method of suicide, deliberately, then you have to come  
10 to law enforcement attention. And so the way that people who  
11 commit a suicide by cop come to law enforcement attention is  
12 similar and has been identified in the literature. People may  
13 call the police themselves, and that's been described in  
14 literature, and I was involved in a case where that occurred.  
15 Or they may engage in what some researchers call outrageous --  
16 an outrageous act, but I prefer to call abnormally abnormal  
17 behavior. It was abnormal for somebody to rob a convenience  
18 store, but it is -- most of us will never do that, so it's  
19 abnormal. It's abnormally abnormal after you rob a convenience  
20 store to wait for the police to show up.

21 It is abnormal for somebody to be involved a law  
22 enforcement pursuit. But it is abnormally abnormal to not  
23 attempt to evade in the pursuit. To stay in the same area. Or  
24 to, if the police lose you on the pursuit or break off the  
25 pursuit, to then reengage the contact with the police. It is

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1 abnormally abnormal to engage in behaviors that would reliably  
2 cause citizens to call the police or report you, in a small  
3 geographic area. So it's abnormal to be engaged in repeat  
4 episodes that would, over say a brief period of time. But it  
5 is abnormally abnormal once the police are called not to  
6 either, you know, pull over when they signal, or to then engage  
7 in a pursuit where you're not trying to evade. I was involved  
8 in a case where that was the case, and I can discuss the facts  
9 of that if you'd like.

10 So the way the actual law enforcement contact begins  
11 is similar from case to case.

12 Then generally the behavior, once law enforcement is  
13 engaged, again, indicates a desire of not to be caught, and  
14 also indicates -- you see very frequently noncompliance with  
15 law enforcement commands. That's another hallmark indicator.  
16 It's very, very rare for people to be noncompliant with law  
17 enforcement commands. You know, the average citizen and the  
18 average law enforcement officer in the course of their day  
19 doesn't run into that.

20 Then breaking down the incident to the beginning and  
21 then the end, if you look at the immediate, what I would call  
22 predeath behaviors, you tend to see an escalation, people who  
23 want to commit a suicide by cop know that they have to present  
24 a risk of either serious bodily injury or lethal force to the  
25 police in order to be shot. So you see an escalation in that

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1 level of threat if the initial attempts are unsuccessful.

2 And then, finally, the last thing that you see is  
3 generally the incidents evolve extremely rapidly. It's very,  
4 very rare for them to last long enough for negotiators to be  
5 called and arrive on the scene. In the studies that we've  
6 looked at, the length of time from the time that law  
7 enforcement is contacted until shots are fired and the person  
8 is incapacitated lasts somewhere between 5 to 15 minutes.

9 Q. So in terms of presenting a lethal threat to the police  
10 would be a way of increasing the risk of you being shot?

11 A. Yes, and that also occurs in fairly typical ways that have  
12 been discussed in the literature, and we can discuss those if  
13 you like.

14 Q. We'll get back to that.

15 A. Okay.

16 Q. Are you familiar with the term "practicing" in terms of  
17 suicide by police?

18 A. Yes.

19 Q. And can you describe to the jury what that is and what  
20 significance it has?

21 A. People who commit suicide in general may engage in  
22 behaviors, practicing their suicides. The significance is that  
23 the person is doing two things: One is decreasing their  
24 anxiety, it's almost like a dress rehearsal. And the other is  
25 just like a dress rehearsal: They are making sure that nothing



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1 will go wrong. So, you know, people may drive out to the coast  
2 if they're planning to drive over a cliff and do research on  
3 the Internet about what efforts you need to make to kill  
4 yourself and so forth.

5 We find practicing in suicide by police cases as well  
6 where in the hours or days or sometimes weeks before the fatal  
7 event, the person may bring themselves to law enforcement  
8 attention in a less drastic way, not present necessarily a  
9 threat of lethal force, although sometimes they do as a way of  
10 doing two things: One is learning about law enforcement -- and  
11 we know what they're doing from interviews of survivors --  
12 learning about law enforcement procedure to determine what they  
13 need to do in order to be successful in their suicide. And  
14 also decreasing their anxiety through the event to make sure  
15 that they can go through it to the end.

16 Q. Okay.

17 A. I did also have a patient talk to me about practicing, but  
18 if you prefer to stay away from patients, that's fine.

19 Q. Oh, it's really up to you if you think it's significant.

20 A. Well, it's illustrative because often -- as I got into this  
21 field, you know, some of the things that I've heard seemed  
22 somewhat strange or odd or unusual until the people who were  
23 involved actually started to explain them to me. So one of my  
24 patients told me that he was actually involved in several  
25 episodes of practicing for his suicide by cop. He had decided

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1 that the way he would come to law enforcement attention would  
2 be to shoplift from a business and then get caught and engage  
3 in an action that would -- well, that police would be called  
4 and that he would engage in an action that would precipitate  
5 the use of lethal force.

6 So he had actually, you know, gone to this business  
7 several times and shoplifted successfully and felt, you know,  
8 much less anxious in doing it. You can imagine how I felt in  
9 hearing this. You know. It's very anxiety provoking. And you  
10 know, successfully shoplifted, and once he felt less and less  
11 anxious about it, his next plan was to go get caught and have  
12 the police come.

13 Q. Okay. Now, in evaluating whether an episode is a suicide  
14 by police or attempted suicide by police, do you -- how do you  
15 evaluate whether the person interacting with the police  
16 actually had a suicidal intent; in other words, that that's  
17 what they wanted to do, how do you go about doing that?

18 A. As I mentioned before, you look for, in the -- you know,  
19 suicide's been studied for a long, long time, and so -- and in  
20 many different countries. And so we have an understanding  
21 about what we call both static and dynamic or chronic and acute  
22 risk factors for suicide. Static or chronic risk factors would  
23 be things that don't necessarily change over time. Such as  
24 gender, for example. So we look for that type, you know, does  
25 the person fit the demographic of somebody who is at risk for

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1 suicide because of these chronic or static risk factors.

2 Then we also look at the acute or dynamic, the sort of  
3 "why now" risk factors for suicide. And particularly because  
4 there's a suicide police investigation that you asked me about,  
5 we would rely on the literature of that as taking a subset of  
6 those risk factors that are applied -- known to be more likely  
7 to occur in suicides by police, things like the risk of prison  
8 sentence, risk of, I don't know, animosity towards the police,  
9 family benefitting from civil litigation -- there are others as  
10 well, desire to go out in a blaze of glory, that type of thing,  
11 to see whether or not there's evidence in the behavior at the  
12 time, and also in the history that apply to that specific  
13 incident.

14 Q. Now, when someone commits or attempts to commit a suicide  
15 by police, is there always a clearly and directly stated  
16 intent; in other words, saying, I want you to shoot me, or  
17 something that's very obvious?

18 A. No.

19 Q. Okay. And has the manner in which suicidal intent is  
20 expressed, has that been studied?

21 A. Yes.

22 Q. And was that study that large study over 10 years that you  
23 talked about?

24 A. It was mentioned in that study and other studies as well.

25 Q. In what percentage -- under the research that's been done,

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1 in what percentage of suicides by police does the person leave  
2 a suicide note?

3 A. 2.2 percent of suicide-by-police cases, a suicide note  
4 discussing the suicide-by-police plan is disclosed.

5 MR. GALIPO: Your Honor, apologize again for the  
6 record, vague as to all suicides or of that particular study.

7 MR. WIENER: I'm referring to --

8 MR. GALIPO: All suicide by cops everywhere in the  
9 world or referring to that one study?

10 THE COURT: It seems a bit broad. Also, this is just  
11 asking for data, this really isn't relevant. We can go through  
12 the entire field that this witness may have studied. The  
13 question is, what are her opinions and to the extent whatever  
14 she studied relates to them, not just to go through the whole  
15 history of studies in the area, how many of this, how many of  
16 that.

17 So I'm going to sustain the objection. Particularly  
18 in the interest of time.

19 MR. WIENER: Okay.

20 BY MR. WIENER:

21 Q. Dr. Keram, do you have an opinion about the percentage of  
22 people --

23 THE COURT: No, not about the percentage. What's her  
24 opinion that's relevant to this case, and if the percentages of  
25 people around the world who commit suicide by cop has some

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1 bearing on it, then maybe you can elicit it.

2 Q. Okay. Do you have an opinion about whether everyone who  
3 commits suicide by police leaves a suicide note?

4 A. Yes, I do.

5 Q. And what's your opinion in that regard?

6 A. My opinion is that the overwhelming majority, 97.8 percent,  
7 do not leave a suicide note communicating their intent.

8 Q. Do you have an opinion about whether all people who attempt  
9 or commit suicide by police tell their family ahead of time  
10 that they're planning to do that?

11 A. Yes, I do.

12 Q. What's your opinion in that regard?

13 A. Again, the overwhelming majority do not communicate their  
14 intent to commit a suicide by police to their family. Only 6.5  
15 percent do, which means that 93.5 do not.

16 Excuse me, I'm not good at math.

17 Q. And that's based on the studies that have been done?

18 A. Yes.

19 Q. Do you have an opinion about whether all people who attempt  
20 or commit suicide by police tell the police ahead of time to  
21 shoot them. In other words, explicitly say, "Shoot me"?

22 THE COURT: You know, I'm going to interrupt. The  
23 issue here is whether this witness has an opinion about whether  
24 there was a state of mind held by Mr. Boyd at the time of the  
25 shooting that's consistent with wanting to have the police

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1 shoot him. To the extent that certain facts pertain or don't  
2 pertain in our case, when the witness thinks they are or are in  
3 the significant in that regard, she can explain why she thinks  
4 they are or are not significant. In other words, if there's no  
5 suicide note, does that affect her opinion in this case. If  
6 the answer is no, the reason why. In many cases, people don't  
7 leave suicide notes.

8 But to again simply go through this long event of  
9 everyone in the world again and simply put it in the context  
10 of, Do you have an opinion about..., the Court feels is not an  
11 appropriate use of the expert witness.

12 So I'm sustaining the objection.

13 MR. WIENER: Yes, your Honor.

14 BY MR. WIENER:

15 Q. Okay, now, Dr. Keram, you have become familiar with this  
16 case relating to Cammerin Boyd; is that right?

17 A. Yes.

18 Q. And you've reviewed background material to become familiar?

19 A. Yes.

20 Q. Do you, based on your experience with suicide by police, do  
21 you have an opinion about whether Cammerin Boyd committed  
22 suicide by police on May 5th, 2004?

23 A. Yes, I do.

24 Q. And what is that opinion?

25 A. It's my opinion that Mr. Boyd did commit a suicide by cop

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1 on May 5th, 2004.

2 Q. Now, I'm going to pose some hypothetical questions to you  
3 and ask you your opinion, assuming those hypotheticals to be  
4 true. I want you to assume that Cammerin Boyd lost his legs,  
5 the lower portion of his legs, in an accident following a  
6 high-speed chase with the California Highway Patrol; I want you  
7 to further assume that that accident changed his life from a  
8 promising athlete to someone who was no longer a promising  
9 athlete and began to commit crimes and start time in jail, and  
10 actually fought a lawsuit related to that accident alleging  
11 that the police were at fault. I want you to assume those  
12 facts.

13 THE COURT: You know, she's already said she has an  
14 opinion. Wouldn't it be easier to ask her what her opinion is  
15 based on?

16 MR. WIENER: And not proceed by hypothetical, your  
17 Honor?

18 THE COURT: I think that you could probably do that in  
19 this case. Rather than have to recount the entire record in  
20 the case. In other words, you can draw the witness's attention  
21 to things if she needs that done. You know, this is the  
22 history part of it and you can ask her about it. Certain  
23 things are not in dispute here; for example, that he did lose  
24 his legs in a high-speed chase.

25 MR. WIENER: I just wanted to make sure to focus her

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1 on specific areas.

2 THE COURT: But it's going to take you a long time to  
3 lay out six weeks of testimony.

4 MR. WIENER: I'm not going to be laying out six weeks  
5 of testimony, and I won't be wasting time, but I think it is  
6 important to focus on different aspects of the case.

7 THE COURT: Why don't you start by asking the witness  
8 whether the history then of his leg loss had a bearing, and  
9 then you can ask her about --

10 MR. WIENER: I can do that, your Honor.

11 THE COURT: Okay.

12 BY MR. WIENER:

13 Q. In evaluating whether Cammerin Boyd committed suicide by  
14 police, did you consider his -- whether he held animus towards  
15 the police?

16 A. Yes, I did.

17 Q. Or hatred. And as part of considering that, did you  
18 consider the 1993 accident in which he lost his legs after a  
19 high-speed chase with the California Highway Patrol?

20 A. Yes, I did.

21 Q. And did you consider that he fought a lawsuit afterwards  
22 blaming the police for the loss of his legs?

23 A. Yes, I did.

24 Q. And did you consider the change in his life going from a  
25 promising athlete to someone who was now disabled and who then



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1 began to commit crimes; did you consider that?

2 A. Absolutely. Because one of the risk factors for suicide in  
3 general is poor coping with a significant life event. So you  
4 know, there are many below-the-knee double-amputees who have  
5 promising futures prior to the accident, or whatever led to it,  
6 who are able to sort of reconstitute themselves and, you know,  
7 go to work or raise a family, you know, sustain a long-term  
8 injury, that type of thing, have a good positive trajectory for  
9 their life, not be involved in criminal activity. So that was  
10 certainly a risk factor for suicide in general, the lack of  
11 good coping ability.

12 And then the suicide-by-police piece would be, you  
13 know, the animosity toward the -- the possibility for animosity  
14 toward the police. Other general risk factors for suicide that  
15 stem from that event are poor physical health, that's a  
16 recognized risk factor for suicide, and Mr. Boyd had long-term  
17 problems with stump infections, with an osteomyelitis, which is  
18 a bone infection, and with fistulas from being in a seated  
19 position for too long, an infection in his buds.

20 And also the last piece for -- I shouldn't say risk  
21 factor for suicide, but -- well, yeah, risk factor for suicide  
22 in general, and suicide by cop specifically, was this issue of  
23 facing a potentially long prison sentence because there's an  
24 abundance of information in the medical record from the  
25 incarcerations that he had both in jail and in prison.

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1 Q. Doctor, I'd like to get back to that.

2 A. I'm sorry.

3 Q. I'd like to focus you on the 1990 -- we'll only proceed one  
4 piece at a time, if that's okay.

5 A. Okay.

6 Q. Is this 1993 accident, losing your legs, blaming the  
7 police, and having a major impact on your life, is that the  
8 kind of event that could contribute to the -- to animus against  
9 the police sufficient ultimately to lead to a suicide by  
10 police?

11 A. It's something certainly that you would consider,  
12 absolutely.

13 Q. And in your opinion, is that something that could  
14 contribute to that kind of animus?

15 A. Absolutely, yes.

16 Q. Now, again remaining on animus towards the police, if based  
17 on Mr. Boyd's history of arrests, of criminal convictions, of  
18 spending time in jail and in prison, and specifically having a  
19 very bad time in prison in terms of his legs, is that the kind  
20 of life experience that could contribute to animus against the  
21 police leading to a suicide by police?

22 A. Yes, absolutely.

23 Q. Okay. People who commit suicide by police, in your  
24 experience, do you have an opinion about how common is it for  
25 people who commit suicide by police to have a criminal record?

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1 A. In the Hudson study, two-thirds of people who committed  
2 suicide by police were found to have a criminal history. In  
3 the study that we conducted at UCSF, we found a similar  
4 percentage.

5 Q. Mr. Boyd's lawsuits against the police alleging he had been  
6 mistreated by the police and filing, suing those lawsuits, is  
7 that the kind of behavior that could contribute to the animus  
8 necessary to pursue suicide by police -- I'm not saying by  
9 itself, but in the context?

10 MR. GALIPO: Your Honor, is it possible that we could  
11 try to elicit the opinions and reasons for them rather than  
12 going over, with leading questions, every specific item?

13 THE COURT: Now, is that a question? Or an objection?

14 MR. GALIPO: It's an objection, your Honor, to the  
15 leading nature of the questions and that certain things are  
16 possible as opposed to the basis for her opinion.

17 THE COURT: In the first place, the form of the  
18 question is objectionable. If you're asking someone  
19 essentially a question that could be answered by a lay witness,  
20 if somebody lost their legs in a car chase, would that be  
21 possible grounds to be angry at whoever chased them? Yes, you  
22 don't need an expert to tell you that. So that kind of a  
23 question is objectionable. I think we should get to the  
24 witness's opinion and whatever events she relied on in forming  
25 her opinion in that respect.

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1 Okay. I'm sustaining Mr. Galipo's objection.

2 BY MR. WIENER:

3 Q. Do you believe that Cammerin Boyd had animus or hatred  
4 towards the police that, in your opinion, would be sufficient  
5 to meet that aspect of suicide by police? You've already  
6 described that that is something to consider?

7 A. Yes.

8 THE COURT: Well, what is she drawing her conclusion  
9 from?

10 MR. WIENER: I was about to ask her that?

11 THE COURT: In other words, you're going to have to  
12 ask her then to make factual determinations in the form of your  
13 question.

14 MR. WIENER: That's why I was trying to proceed by  
15 hypothetical.

16 THE COURT: No, your earlier hypotheticals were with  
17 respect to matters not in dispute. This is a matter that is in  
18 dispute. It is not in dispute he lost his legs in the car  
19 chase. His specific state of mind as to how angry he was at  
20 the police at any given point may well be in dispute. This  
21 witness is not in a position to draw those conclusions, at  
22 least from what you've asked thus far.

23 MR. WIENER: I'll proceed by hypothetical, which had  
24 been my intent, your Honor.

25 THE COURT: You'll proceed, and we'll see if it's

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1 productive.

2 BY MR. WIENER:

3 Q. Okay. I want you to assume the following facts:

4 I want you to assume that someone had had significant  
5 negative interactions with the police leading to spending time  
6 in prison, leading to the loss of legs, and that that person  
7 had filed various lawsuits against the police blaming the  
8 police for or alleging that they had engaged in misconduct  
9 against this person. I want you to further assume that the  
10 person, several weeks before their death, was found to have in  
11 their car rap lyrics advocating for shooting police officers  
12 along with a newspaper clipping with a photo of an officer who  
13 had been recently murdered.

14 Assuming those facts to be true, could that lead to  
15 the type of animus that would cause one to choose suicide by  
16 police as opposed to some other form of suicide?

17 A. Yes, certainly.

18 Q. Can you explain why you believe that?

19 A. It's a two-step process that could lead to that. One is  
20 the blaming of law enforcement for the loss of a perceived  
21 successful future. Particularly if that was never resolved  
22 through normal channels such as a lawsuit.

23 And then because of the blame, the desire for  
24 retaliation, and again, you know, retaliation can take the form  
25 of a lawsuit in a normal sense, you know, people seek to be

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1 made whole, is the legal term for it. So if that is cut off,  
2 then they seek retaliation in other ways such as -- and, again,  
3 a patient of mine discussed this with me and it's also in the  
4 literature -- the desire to retaliate against law enforcement  
5 by inflicting psychological harm in the conduct of a suicide by  
6 police, specifically the way the suicide by the police --  
7 suicide by police would unfold. It does create an opportunity  
8 for the subject to play a sort of cat-and-mouse game, as my  
9 patient put it to me, with the police at the time of the event  
10 that is very, very harmful to the police.

11 Q. In terms of the. Hypothetically, the rap lyrics advocating  
12 the murder of a police officer along with a clipping of a photo  
13 of a recently murdered police officer, is that something that  
14 would, in your view, assuming that to be true, would contribute  
15 to that type of animus?

16 A. It's evidence of that type of animus, yes.

17 Q. Now, I want you to -- you mentioned before pending criminal  
18 charges as being a risk factor?

19 A. Yes.

20 Q. I want you to assume that --

21 MR. GALIPO: Your Honor, apologize, but I think  
22 hypotheticals that are going over every bit of information as  
23 opposed to asking the witness the reasons for her opinions  
24 based on the materials she reviewed, I think it's  
25 inappropriate.

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1 THE COURT: I'm going to sustain the objection. I'm  
2 sustaining the objection.

3 BY MR. WIENER:

4 Q. Do you have an opinion about whether Cammerin Boyd's -- the  
5 criminal charges pending at the time of his death from the year  
6 before and that had been set for trial, do you have an opinion  
7 about whether that provides evidence that this was a suicide by  
8 police?

9 A. Yes. It absolutely provides evidence that this was a  
10 suicide by police. It's -- in the Hudson study, the percentage  
11 of suicides by police, the decedents who were found to be  
12 facing a lengthy prison sentence at the time they committed the  
13 suicide by police was 8.7 percent. So it's a known, recognized  
14 risk factor.

15 In addition, in law enforcement trainings by law  
16 enforcement officers who have been on scene, the statements  
17 such as, "I'm never going to be taken alive, I'm not going back  
18 to prison, prison's not a pretty place, I'm not going there"  
19 have all been reported. So the potential for facing a long  
20 prison sentence is a well-recognized risk factor for suicide by  
21 police.

22 Q. How about in Mr. Boyd's case, having had a very bad time in  
23 prison when he had been there previously, does that contribute  
24 to your opinion about the significance of a pending criminal  
25 charge?

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1 A. Yes. Absolutely. Mr. Boyd, relying on Mr. Brass's report,  
2 Mr. Boyd was facing a lengthy prison sentence. Somewhere  
3 between about 15 and 25 years. I reviewed his medical records  
4 from the county jail in San Francisco and also in Alameda  
5 County as well as the California Department of Corrections,  
6 those are the prison medical records, and there are many, many,  
7 many examples of contact with the medical office for treatment  
8 of stump infections and problems resulting from his spending so  
9 much time sitting. So he's had a very difficult course in  
10 prison and in the jail related to his inability to care  
11 properly for his stumps.

12 In addition, and I think probably most significantly,  
13 at one point he had a much more significant infection which  
14 led, I think, that time to a bone infection. He was taken from  
15 the prison to a hospital outside of the prison, and the doctor  
16 wrote in his letter, in his note --

17 MR. GALIPO: I'll object as hearsay, your Honor, what  
18 the doctor wrote.

19 THE COURT: Actually, I don't know what was in the  
20 note. So if it's something that is of particular concern, then  
21 we may have to send the jury out. This is -- I'm sorry, go  
22 ahead.

23 MR. GALIPO: I apologize. I don't know specifically  
24 what's in this specific note either.

25 THE COURT: All right. It may be something that the



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1 witness cannot testify to. When a doctor is testifying about a  
2 medical opinion for treatment purposes, they often can rely on  
3 the records of other doctors. But this is not for treatment  
4 purposes, and it is not an opinion of the sort that ordinarily  
5 would give rise to allowing that type of hearsay evidence to be  
6 admitted.

7 So I will sustain the objection.

8 BY MR. WIENER:

9 Q. Okay. Putting that aside, was there any further  
10 explanation you needed to give about the significance of  
11 Mr. Boyd's troubles in prison, or had you completed your  
12 response?

13 A. There was also the fact that it limited his ability -- in  
14 prisons, the most desirable housing is up (indicating), and he  
15 was always given a lower bunk on the lowest floor. And that's  
16 considered to be very undesirable housing.

17 Q. Okay.

18 MR. GALIPO: I apologize, your Honor, I'm going to  
19 object and move to strike that that's considered to be --  
20 lacking foundation that that's undesirable housing.

21 THE COURT: Well, I'll sustain, unless you can lay a  
22 foundation that the witness is familiar with the prison  
23 hierarchy concerning bedding.

24 MR. GALIPO: All the housing may be undesirable.

25 THE COURT: Okay.

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1 THE WITNESS: That's not in dispute.

2 MR. WIENER: I think that is undisputed. I'll go on  
3 to another matter, your Honor. It's not significant enough.

4 THE WITNESS: But I can give examples that form the  
5 basis of that opinion.

6 BY MR. WIENER:

7 Q. It's okay. I think we can move on.

8 A. Okay.

9 Q. Now, did you review the toxicology reports in this case in  
10 terms of -- about Mr. Boyd being under the influence of  
11 amphetamines and MDA at the time of his death?

12 A. Yes, I did.

13 Q. Now, do you, in your opinion, does that type of -- being  
14 under the influence of drugs, in terms of, in Mr. Boyd's case,  
15 does that contribute to your opinion that this was a suicide by  
16 police; and if so, why?

17 A. It does. For a few reasons. First of all, again, matching  
18 the facts of this case with what's known in the literature  
19 about decedents in suicide-by-cop cases. In the Hudson study,  
20 about two-thirds of people were found to have either a  
21 substance abuse history or to be intoxicated at the time they  
22 precipitated the shooting. In our study, it was close to a  
23 hundred percent.

24 Secondly, there are disinhibiting facts of the  
25 substances he ingested. "Disinhibiting" meaning ordinarily you

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1 might not necessarily engage in those behaviors, but it takes  
2 the brakes off so that, you know, people call it either liquor  
3 courage or drugging up, that type of thing, so it makes it more  
4 likely that he would engage in that type of behavior.

5 Q. Did you see Dr. Mendelson's opinion about something called  
6 "post-intoxication depression," when you're coming down?

7 A. Yes, I did.

8 Q. Is that significant, in your opinion?

9 A. Yes, certainly. Again, you know, there can be  
10 disinhibition in the post-intoxication phase, but also because  
11 of the depression, and this is well described in the  
12 literature, and certainly my clinical practice I've seen it  
13 many, many times, in the post-intoxication phase of stimulants  
14 such as those found in Mr. Boyd's system, the level of  
15 depression that people have can be associated with intensely  
16 suicidal thoughts. And actions, in fact.

17 Q. Now, if you assume that Mr. Boyd did not receive a formal  
18 psychiatric diagnosis before he died, and whether that was a  
19 diagnosis of depression or anything -- first, let me ask you,  
20 is suicide an actual diagnosis?

21 A. No.

22 Q. So you would never actually diagnose someone,  
23 quote-unquote, with suicide?

24 A. No.

25 Q. Suicide is a behavior?

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1 A. Correct.

2 Q. Now, if you assume that Mr. Boyd was not diagnosed  
3 psychiatrically before he passed away, does that defeat your  
4 opinion that or does that change your opinion about whether  
5 Mr. Boyd committed a suicide by police?

6 A. No, not at all. And I can discuss that.

7 Q. Can you explain why?

8 A. If you look at the literature of suicide and psychiatric  
9 diagnosis, what is found is that approximately, depending on  
10 the studies, and there are extremely large studies, somewhere  
11 between 10 to about 33, 34 percent of people who suicide have  
12 absolutely no psychiatric diagnosis. And those studies were  
13 conducted in a very considered way looking back at huge amounts  
14 of information and doing lots of interviews of people who knew  
15 those -- the person who had suicided to look for any type of  
16 symptoms that would be indicative of a mental health diagnosis.  
17 So, you know, up to a third of people who suicide in fact don't  
18 have any psychological suicide diagnosis.

19 Q. Assuming that Mr. Boyd was not under psychiatric care at  
20 the time that this event happened, does that affect your  
21 opinion about whether this was a suicide by police, if he was  
22 not under any psychiatric care at the time?

23 A. No. Not at all. And I can discuss that as well.

24 Q. Please.

25 A. The literature shows that over three-quarters, and

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1 sometimes about 77 percent of people who suicide are not in  
2 psychiatric treatment at the time of their death. Or within  
3 the last year or ever.

4 Q. Okay. Now, again, if we assume that Cammerin Boyd was not  
5 clinically depressed at the time that he -- that this incident  
6 happened, if we assume that, does that affect your opinion  
7 about whether this was a suicide by police?

8 A. No, it doesn't.

9 Q. Why not?

10 A. Because when you look at males who suicide, a diagnosis of  
11 depression is not the predominant finding. It's the diagnosis  
12 of substance use that's the predominant finding. If they do  
13 have a psychiatric diagnosis at all.

14 Q. Now I want to ask you questions about practicing related to  
15 Cammerin Boyd. Are you familiar with what we'll call the  
16 Oakland incident from May 2nd, 2004?

17 A. Yes, I am.

18 Q. Three days before the death. So I want you to assume that  
19 three days before the fatal confrontation --

20 MR. GALIPO: Your Honor, I apologize, but again, going  
21 through an assumption about the Oakland incident, if she has an  
22 opinion related to that, I would ask that she give it.

23 THE COURT: This is more of a factual nature, and I'll  
24 overrule the objection. I'm going to assume the doctor's  
25 relying on this in some way. Okay.

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1 Q. So three days before the fatal confrontation in  
2 San Francisco, you assume that Mr. Boyd initiated a high-speed  
3 vehicle pursuit in Oakland in a crowded pedestrian area. I  
4 want you to assume that the police pursued him and then  
5 terminated the pursuit because it was going too fast.

6 I want you to assume that 15 to 20 minutes later,  
7 Mr. Boyd came back to the same area and initiated a new  
8 high-speed pursuit with the police, and that that pursuit was  
9 then terminated again because it was too fast. I want you to  
10 then assume that the police saw Mr. Boyd again, his vehicle  
11 stopped, assume that he got out of the car and got down to the  
12 ground, and the officers went to arrest him. I want you to  
13 assume that during the course of the -- his being taken into  
14 custody, he said to the -- repeatedly told the officers to kill  
15 him or shoot him. And then I want you to assume that when at  
16 the police station after being arrested, he again told a police  
17 lieutenant or the police lieutenant heard him saying, "Kill me"  
18 or "shoot me."

19 In your view, would that constitute practicing; and if  
20 so, why?

21 A. It's my opinion that that may have constituted practicing.  
22 And the reason is, what you see in that Oakland incident, those  
23 behaviors, if they occurred, are very similar and in some cases  
24 identical to the behaviors that you see in the San Francisco  
25 incident. You see the deliberate attempt to come to law

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1 enforcement attention by doing something that is obviously  
2 unlawful.

3           So in San Francisco, you see the interaction with Miss  
4 Williams. You see the interaction with Miss Hogan. So two  
5 events that would obviously be expected to have somebody call  
6 the police. You had the initiation of a pursuit. And you see,  
7 again, through the time of his interaction with the two women  
8 and the pursuit, him staying in the same area. In fact, the  
9 pursuit stays in the same area. It goes back to where it  
10 started. So you see very similar behaviors. You also see the  
11 noncompliance with law enforcement commands.

12 Q. Focusing on Oakland.

13 A. They're in both incidents. That's what I'm saying, is the  
14 similarities indicate and support that the Oakland incident was  
15 a practice run.

16 Q. Now, with respect to the Oakland incident, did you find it  
17 significant that he came back to the same area after eluding  
18 police?

19 A. Yes, absolutely.

20 Q. And why is that significant?

21 A. Because, as I said before, people who are going to commit a  
22 suicide by police have to come to law enforcement attention.  
23 And if they're not successful in maintaining that, or getting  
24 that attention or maintaining it, they will reinitiate it.

25 Q. How about the statements to the Oakland officers about

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1 "kill me" or "shoot me," is that significant, and why?

2 A. Number 1 is it indicates a suicidal intent, that's the  
3 obviously most important. Number 2, it indicates a suicidal  
4 intent to have the police kill you and sort of a testing of how  
5 to communicate with the police to make that happen.

6 Q. Now, does someone have to, in your view, say, tell the  
7 police to kill them or shoot them in order for it to be a  
8 suicide by police?

9 A. Oh, no, no, absolutely not. In fact, in the Hudson study,  
10 over a -- 42 percent of the decedents in that study did not  
11 make any statements to the police about a suicidal intent or a  
12 desire to be shot by them.

13 Q. Now, I want to -- as another hypothetical --

14 A. Can I say one more thing about that?

15 Q. Sure.

16 A. The other reason why in this case that's not significant  
17 that he didn't make statements to the police in the final event  
18 has to do with one of the motives for suicide by police in this  
19 case, which is the, you know, the preservation of the idea that  
20 this wasn't a suicide with the risk -- with the risk factor for  
21 suicide by police in this case, one of them being the issue of  
22 the family prevailing in civil litigation.

23 Q. Now, I want you to assume that in the months leading up to  
24 the fatal incident that Mr. Boyd, several months before and  
25 then in the days leading up to, made various statements about



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1 the police trying to kill him, or the police trying to get him.  
2 Again, three months before, within days leading up to and on  
3 the day of the fatal incident. Do those statements have  
4 significance to you; and if so, why?

5 A. Yes, they do. Obviously, when I have the concern that one  
6 of Mr. Boyd's reasons for committing a suicide by police might  
7 be to allow his family to prevail in civil litigation, I have  
8 to have something to base that upon. And that fact, that he  
9 mentioned that to people, that the police were out to kill him,  
10 is one of the foundations for my opinion that one of his  
11 reasons for choosing suicide by police was allowing his family  
12 to prevail in civil litigation. He is instilling in their  
13 minds the idea that the police are going to kill him.

14 Q. Okay.

15 A. And that it's not a suicide, that it's aggression directed,  
16 initiated and directed by the police.

17 Q. Now, I want you to assume that after making these  
18 statements -- and do you need a cup of water?

19 A. Do you mind?

20 Q. Go ahead.

21 A. Thank you.

22 Q. Okay. Now, I want you to assume that after making these  
23 statements about the police trying to kill him, that I want you  
24 to assume that on the day of the fatal incident that his family  
25 members are attempting to get him out of town, that they're

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1 trying to purchase a red-eye ticket to the East Coast to  
2 Atlanta for that very evening, and that they -- that his mother  
3 has told him to get his things out of his rental SUV so that  
4 they can return the SUV to the rental agency. I want you to  
5 further assume that Mr. Boyd goes outside and, instead of  
6 coming back with his items, drives the SUV away and disappears,  
7 much to the surprise of his family.

8 I want you to assume that he then drives into  
9 San Francisco, the jurisdiction where he says the police are  
10 trying to kill him, that he drives within a block of a police  
11 station in the Tenderloin. That he does donuts in the streets  
12 right by the Tenderloin. That he then pulls over a woman  
13 trying to sell him drugs, comes up to his car, he grabs her,  
14 she pulls away, he pulls a gun out on her, and she runs away.

15 I want you to further assume that he then drives a  
16 short distance and pulls up to another woman, Tatanika Hogan,  
17 and points a gun at her head, tells her that he's going to kill  
18 her, tries to get her into his car, and she gets away.

19 I want you to assume those facts. Do those have  
20 significance, in your opinion, that Cammerin Boyd was  
21 attempting to commit suicide by police?

22 A. Yes, absolutely, they do.

23 Q. Can you explain why? And we can break it down to each of  
24 the components.

25 A. Sure. I'm just going to go through it step by step.

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1 Q. Okay.

2 A. The first of it, the spinning of the doughnut.

3 Q. Actually the first of it was leaving the office.

4 A. I'm sorry, of course.

5 Q. I'll just ask the question, in terms of the family trying  
6 to get him out of town and he's supposed to come back from the  
7 SUV and he drives away instead, into San Francisco.

8 A. Right.

9 Q. What significance, if any, do you attribute to that?

10 A. He is seeking out the law enforcement agency that he  
11 communicated to his family was going to -- wanted to kill him.  
12 And so, you know, he is going to have contact with an agency  
13 that he had previously told his family was going to shoot -- or  
14 wanted to shoot and kill him.

15 Q. And how about the significance of when the family's telling  
16 him to do one thing, trying to get him out of town, him leaving  
17 instead?

18 A. There is the -- the concern that that raised for me was  
19 that it was evidence of the "why now" issue, of why he chose  
20 that particular time.

21 Q. Now --

22 A. To start the event that would lead to his death.

23 Q. Now, moving on to the second aspect, the Tiffany Williams  
24 portion in the Tenderloin, what significance, if any, do you  
25 attribute to Mr. Boyd's behavior during that episode, assuming

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1 that those facts are true?

2 A. Assuming that those facts are true, the spinning of the  
3 doughnut occurred in an area that's about a block from a police  
4 station. So it's a dangerous vehicular maneuver near where you  
5 would expect the police presence.

6 Then no police presence occurs, you know, quickly.  
7 And so he escalates his behavior to involve an actual person,  
8 and has a contact with her that would lead somebody to call --  
9 that may lead somebody to call police. That does not occur.  
10 And, in fact, that escalation involved, you know, both  
11 attempting to pull her into the car and then backing up against  
12 traffic on a one-way street. So you see an escalation in  
13 behavior with an unsuccessful attempt to come to law  
14 enforcement attention.

15 Q. How about the use of a gun on someone -- not the firing but  
16 the pulling a gun on someone within a block of a police  
17 station?

18 A. The reason why that is significant is one of the tasks of  
19 somebody who wants to commit a suicide by police is to put into  
20 the police, law enforcement's mind, the knowledge that they  
21 have a weapon. So that's why that's significant. The police  
22 may not know whether or not the weapon is loaded or whether or  
23 not it's functional, but they know that the person does have a  
24 weapon.

25 Q. Now moving on to Tatanika Hogan, again do you assume that

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1 within a few blocks of a police station and close to the  
2 Tiffany Williams episode, he pulls alongside of her, puts a gun  
3 to her head, says he's going to kill her, attempts to kidnap  
4 her, and then chases her when she gets away, what significance,  
5 if any, do you attribute to that episode in terms of suicide by  
6 police?

7 A. It's significant for several reasons. I had mentioned that  
8 the literature supports that people who want to commit a  
9 suicide by police have to draw themselves to police attention,  
10 and that if they're not successful, they'll make repeated  
11 efforts. So you have another effort to come to police  
12 attention by upping the ante, brandishing a weapon and making a  
13 verbal threat to somebody that you're going to kill them.

14 And then you are -- the other significant fact in that  
15 is that he stayed in the area where you would expect there to  
16 be a police presence, and in fact chased her or followed her,  
17 if you want to say that, to a block where there had been a  
18 patrol car with two officers present for approximately 20  
19 minutes. So, you know, the possibility that the knowledge of  
20 the Tenderloin police station was augmented by knowledge of  
21 this patrol unit out on the street where he followed the --  
22 followed Miss Hogan.

23 Q. So following Miss Hogan up to the point where Officer Mason  
24 was?

25 A. Right, and that's significant because he, you know, he

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1 threatened to kill her with the weapon. So assuming that that  
2 is communicated to the police, not only do they know now that  
3 he had a gun, but they also know that he intends to use it. Or  
4 that he's saying that he intends to use it.

5 Q. Okay. Now a new hypothetical. I want you to assume that  
6 after Mr. Boyd chases Miss Hogan and then turns around and  
7 drives away from her, when they reach the police, that he then  
8 stays in the same general area. I want you to assume that the  
9 police, after Officer Mason radios in the Hogan incident, the  
10 police identify his vehicle, his SUV, and that a pursuit  
11 begins. I want you to assume that the pursuit goes to rather  
12 high speeds, including driving fast the wrong way down a  
13 one-way street, Turk Street, almost hitting a bicyclist. I  
14 want you to assume at one point Mr. Boyd jumped over the median  
15 at Divisadero. And I also want you to assume that on two  
16 separate occasions during this high-speed chase, Mr. Boyd  
17 reaches out of the window of his SUV with his gun and fires at  
18 the police officers with his gun.

19 Assuming that hypothetical to be true, what  
20 significance, if any, does that have for your opinion that this  
21 was a suicide by police?

22 A. It is significant, and again for several reasons. First of  
23 all, you see no attempt to leave the area. So it's very  
24 consistent with people who commit suicides by cop in that he  
25 stays in an area where there is police presence between the

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1 time he leaves Ms. Hogan and the time the pursuit is initiated.

2 Secondly, that he's not compliant -- well, actually,  
3 let me back up one step. He begins to accelerate before  
4 Officer Elieff turns on his lights and sirens or makes, you  
5 know, any indication that he wants to pull Mr. Boyd over. So  
6 there's an escalation in behavior that's likely to result in  
7 police attention there as well. Obviously, he doesn't know if  
8 anybody's put out his vehicle description or anything like  
9 that.

10 During the --

11 Q. Again, if you would just limit it to the facts that I have  
12 given you in the hypothetical.

13 A. I'm sorry. Okay. Assuming that fact is true too, he then  
14 engages in a pursuit and does not pull over when there's a  
15 light and siren car behind him. And then when there's two, the  
16 jumping over the median, again let's the law enforcement  
17 officers know that he's engaging in very dangerous behavior.

18 The first shot that's fired, again, is an escalation  
19 of threat, allows the officers to know that not only does he  
20 have a gun and not only has he threatened to use it, but now  
21 they know that it's functional -- then that because it's  
22 loaded, so they know it's loaded and functional. And they know  
23 that from the second shot as well.

24 Was that the end of the hypothetical that you gave me?

25 Q. Yes. And does the fact that he actually shot at the police

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1 twice during the chase, hypothetically, assuming that to  
2 believe true, is that significant?

3 A. Certainly it is probably the most significant fact in that  
4 part of the scenario because it shows that he is willing to use  
5 lethal force against law enforcement officers. In the Hudson  
6 study, three officers were shot and wounded, in the officers  
7 who were involved in three separate incidents. So we see that  
8 if decedents in these cases are not successful in their initial  
9 attempts, that they may engage in really seriously lethal  
10 threat against law enforcement officers.

11 MR. GALIPO: Your Honor, move to strike the latter  
12 part of her answer as being nonresponsive to the question.

13 THE COURT: Well, I'd overrule on nonresponsive  
14 grounds since this is direct examination. If the question is  
15 appropriate or the material is appropriate to be elicited, it  
16 can simply be elicited in the follow-up question.

17 I'll overrule.

18 BY MR. WIENER:

19 Q. Now, an additional hypothetical. I want you to assume that  
20 the vehicle pursuit itself ends as follows: That Mr. Boyd,  
21 instead of going onto a freeway and driving away from  
22 San Francisco, that instead he leads the police to a housing  
23 project that is a few blocks away from the Tatanika Hogan  
24 kidnapping attempt. I want you to assume that he stops and  
25 then starts again and ultimately comes to a rest -- to rest in



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1 the middle of the housing project and does not exit on the  
2 other side to keep going on the chase. He just stops. And I  
3 want you to assume that as he is coming into the projects that  
4 he is shouting something to the effect that the police are  
5 trying to kill him, or something similar to that.

6 Now, again focusing just on that hypothetical and  
7 those facts, are they significant to your opinions regarding  
8 suicide by police; and if so, why?

9 A. Yes, they are significant. If you wouldn't mind, I don't  
10 want to miss any of the pieces that you gave me, so if you  
11 would just break it down.

12 Q. Sure. Not going onto, say, a freeway to get away and  
13 instead staying in the same vicinity and actually ending the  
14 pursuit several blocks away from where the Hogan kidnapping  
15 attempt happened. What significance does that have?

16 A. I had mentioned before that he stayed in the same area. He  
17 didn't make the attempts to flee that one would expect if  
18 somebody was trying to evade law enforcement officers. Staying  
19 on surface streets and, in fact, you know, smaller surface  
20 streets.

21 Q. Now, how about shouting something to the residents in the  
22 area, something to the effect of "The police are trying to kill  
23 me," or something similar, does that -- would that statement  
24 have any significance?

25 A. Yes, it absolutely does. Mr. Boyd has two tasks, if you

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1 will. He has to create, assuming that I'm correct in all of  
2 the foundations that I have, that one of his motivations is to  
3 allow his family to prevail in civil litigation, he has two  
4 tasks: He has to create in the mind of the witnesses the  
5 perception that this is an unwarranted, excessive use of force;  
6 that he was doing nothing wrong at the time that he'll  
7 precipitate the lethal force. And at the same time he also has  
8 to create the perception of lethal force so that the law  
9 enforcement officers will shoot him.

10 So the statements to the witnesses as he's driving  
11 along Larch are intended to satisfy that first task, to create  
12 in the mind of the witnesses that's -- that he's doing nothing  
13 wrong and that the police are out to get him, shoot and kill  
14 him.

15 Q. Now, a new hypothetical on Larch Way, again just to the  
16 facts in this hypothetical, that after eventually stopping his  
17 car, finally stopping his car on Larch, he gets out of the SUV,  
18 that he initially puts his hands up, that he then lowers his  
19 hand from an upright position. Assume that there are police  
20 officers around by this time who are pointing guns at him, so  
21 he puts his hands up and then puts them down; that at some  
22 point he gestures to his waistband area, that he takes off his  
23 shirt, either waves it around or throws it around. That he  
24 then, he's being commanded to get down to the ground, but  
25 instead of doing that, his hands are not always up; walks to

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1 the back of the SUV, and then walks back to the open door area;  
2 that he sits down in the floorboard area, either sitting or  
3 just about seated at the edge of the floorboard, and that he  
4 repeatedly reaches into the interior of the car, into the  
5 floorboard area.

6 Assuming those facts to be true, is that significant  
7 to your opinion in terms of suicide by cop? And if you need to  
8 break it down, we can definitely do that.

9 A. Yes, it is significant. Because those behaviors do  
10 indicate an intent to commit a suicide by cop, and if you don't  
11 mind, I'll ask you to break it down. I don't want to --

12 Q. After he gets out of the car, putting his hands up, he's  
13 being demanded, "Put your hands up, get down to the ground,"  
14 puts his hands up but doesn't keep them up, lowers them down  
15 again. What significance, if any, does that have?

16 A. It has significance because it represents three known  
17 things that occur in suicide-by-police events. Number 1: It's  
18 very common for people to be ambivalent during the final  
19 moments of the suicide-by-police event, and in fact at any type  
20 of suicide.

21 You know, suicide is not a walk in the park. It's a  
22 very frightening experience for almost everybody. And so  
23 there's -- in people's minds, there's a should I or shouldn't I  
24 debate going on oftentimes, even though they may be convinced  
25 that at the end they will do it. So you often -- and in fact

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1 this is described in the literature, that people who are  
2 committing a suicide by police may at first appear to  
3 surrender.

4 The other thing that the surrendering or the raising  
5 of the hands does is fix in the witness's minds that he was  
6 surrendering to police. And which then again, of course, puts  
7 in the witness's minds the perception of this is an unfair  
8 shooting, that he's being compliant.

9 And then the third thing has to do with what I  
10 mentioned before: The issue of inflicting psychological harm  
11 on the police officers and engaging in this sort of very tense,  
12 Is it going to end, is it not going to end? Is it going to end  
13 successfully, or is the person going to push it, type of thing.

14 Q. How about gesturing to the waistband area, does that have  
15 any -- let's -- gesturing to the waistband and also taking off  
16 his shirt. Do those facts, assuming them to be true,  
17 hypothetically, have any significance in your opinion that this  
18 was a suicide by police?

19 A. Yes, taking off the shirt shows the witnesses that Mr. Boyd  
20 is demonstrating that he is not carrying a weapon on him.  
21 Gesturing to the waistband is actually seen in other  
22 suicide-by-cop events that have been -- suicide-by-police  
23 events that have been described, witnesses often feel that the  
24 person is trying to gesture that they don't have a weapon,  
25 whereas law enforcement officers feel that the witnesses are

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1 gesturing or reaching for a weapon, and that that's a gesture  
2 that indicates that the threat is about to be escalated. And,  
3 in fact, you know, survivors of suicide-by-police incidents  
4 describe that.

5 Q. Describe doing what?

6 A. Reaching for waistbands as an attempt to induce officers to  
7 shoot them.

8 Q. Now, focusing on a situation where he gets out, he walks to  
9 the back of the SUV, and instead of getting down to the ground,  
10 goes back to the open door area where -- the same door area  
11 from which he had fired at the police, and -- and sits on the  
12 floorboard either all the way seated or almost there, and then  
13 reaches into the vehicle several times.

14 Assuming those facts to be true, hypothetically, what  
15 significance, if any, does that have to your opinion?

16 A. That's significant because it -- it indicates either  
17 escalation of the risk that -- of lethal force, that the  
18 officers then perceive Mr. Boyd was not successful in drawing  
19 fire when he dropped his hands to his waistband, there are many  
20 suicides by cop that end when that occurs. So what he's done  
21 is gone back to the place where the police officers know  
22 there's a functional loaded weapon that he is willing to use.  
23 And then reaching into the car plants in the officers' minds  
24 the fear that he's reaching for it.

25 Q. How about the multiple nature of it, reaching in and coming

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1 back out again, showing your hands, then reaching in again;  
2 what significance, if any, does that, the repeated nature of  
3 doing that, have to you?

4 MR. GALIPO: I'll object as vague and ambiguous as to  
5 "reaching in and coming back out, again reaching in"?

6 THE COURT: Overruled.

7 A. That, again, is seen in other instances of suicide by  
8 police. If the person is not successful in drawing law  
9 enforcement fire, they'll engage in the behavior again.

10 Q. Now, I also now want you to assume that during this  
11 encounter, for example, when Mr. Boyd first got out of the car,  
12 assume that he didn't come out, full guns blazing with a gun  
13 pointing at the officers to present that kind of very, very  
14 direct and open threat with a gun. If you assume that he  
15 didn't do that, does that mean it wasn't a suicide by police?

16 A. No, it doesn't mean that. I had outlined different reasons  
17 why Mr. Boyd, you know, in my opinion, committed a suicide by  
18 police. One of them is the potential prison sentence. But the  
19 other is the preservation of the family's ability to prevail in  
20 civil litigation, and obviously if he had done that, that would  
21 have diminished the chances of that happening.

22 Q. To be a suicide by police do you have to come out with a  
23 gun pointed at the officers?

24 A. No, not at all.

25 Q. Have there been studies on that?

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1 A. Yes, in fact, I think if I remember correctly, about  
2 16.5 percent of people in the Hudson study actually, you know,  
3 came out with a gun pointed at the officers and maintained that  
4 pointing at the officers despite the officers telling them not  
5 to do that.

6 Q. So the other 80 percent did not do that?

7 A. More than 80 percent, yes.

8 Q. Doctor, did you in coming to your opinion that Cammerin  
9 Boyd was committing suicide by police and again assuming the  
10 hypotheticals to be true, did you consider alternative  
11 possibilities in terms of Mr. Boyd's mental state other than  
12 suicide by police?

13 A. Certainly.

14 Q. What did you consider and what was your conclusion in  
15 accepting or rejecting those?

16 A. In looking at the totality of everything that I reviewed,  
17 it also --

18 Q. And I want you to just focus not on the totality of what  
19 you reviewed but on my hypothetical.

20 A. I'm sorry.

21 Q. Because we want to make sure it's evidence at this trial.  
22 Okay?

23 A. Right, of course, I'm sorry. So going back then, focusing  
24 on what you reviewed --

25 Q. On what I --

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1 A. I'm sorry, what you presented to me as a hypothetical.  
2 What I also considered was the possibility that because he had  
3 ingested the substances that were found in his system that  
4 he -- that his mental state was such that he was really not  
5 able to think clearly enough to have formed an intent to engage  
6 in behavior that would bring him to his goal. And the reason I  
7 rejected that was because of how methodical and goal-oriented  
8 all of his behavior was from the very beginning of the incident  
9 all the way through to the end with all those multiple examples  
10 in the hypotheticals that you gave me.

11 Q. So is it your view that suicide by police is the most  
12 likely and the best explanation for this behavior?

13 A. Yes, it's my opinion that Mr. Boyd's death is most  
14 consistent with a suicide by police.

15 MR. WIENER: Okay. One moment, your Honor.

16 (Pause)

17 THE COURT: We should probably be looking for a good  
18 place to break, too.

19 MR. WIENER: I think this would be a good breaking  
20 point, your Honor.

21 THE COURT: Ladies and gentlemen, we're going to take  
22 our regular 15-minute recess at this time. Please remember my  
23 admonition.

24 (The jury exited the courtroom)

25 (In open court; jury not present)



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1 THE COURT: All right. Anytime you'd like to step  
2 down, Dr. Keram, is fine.

3 THE WITNESS: Thank you.

4 THE COURT: I wanted to go briefly just to the  
5 question of time. I understood you to say yesterday,  
6 Ms. Bernstein, that you have been keeping time from the outset  
7 and tracking Miss Lucero's time. Is that correct or not?

8 MS. BERNSTEIN: I have been, your Honor.

9 THE COURT: In other words, every day you've been  
10 keeping time --

11 MS. BERNSTEIN: Yes, your Honor.

12 THE COURT: -- during the course of the trial?

13 MS. BERNSTEIN: Yes, your Honor.

14 THE COURT: And that your time that you've got on the  
15 end of the day on Thursday was the same or within a few minutes  
16 of what Ms. Lucero stated on the record on Thursday?

17 MS. BERNSTEIN: Yes, your Honor.

18 THE COURT: And what was that time again that she  
19 stated?

20 MS. BERNSTEIN: That time was, I believe, 47 hours and  
21 56 minutes.

22 THE COURT: 47 --

23 MS. BERNSTEIN: 47 hours.

24 THE COURT: -- and 56 minutes. Okay. And then the  
25 only other place that there may have been a point of

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1 discrepancy is when we had a long hearing regarding the matter,  
2 and Miss Lucero was going to check, I think, to see whether  
3 that long hearing was on Monday, but I don't know whether she  
4 did.

5 DEPUTY CLERK: I haven't had a chance.

6 THE COURT: Haven't had a chance yet. Okay. So  
7 that's the only other place then where there may have been  
8 something that went awry. I wasn't sure if I misunderstood  
9 that you were keeping time all along and if you were relying  
10 only on her last statement on Thursday. And then moving from  
11 that point forward, I wanted to hear what the time was just to  
12 make sure that it wasn't something like 4:15 that could have  
13 been considered 4:50 or vice versa. Do you know what I mean?  
14 Heard by the reporter as one versus the other.

15 But okay. Then there's just that one other matter,  
16 and we'll check that out and try and get back to you as quickly  
17 as possible.

18 MS. BERNSTEIN: Thank you.

19 THE COURT: Thank you. We're in recess.

20 (Morning recess)

21 (In open court; jury not present)

22 THE COURT: The 40-minute differential may be on  
23 Monday, and the long hearing we had about the 183, 184, 185  
24 situation. So if it is, you may be back to Miss Lucero's  
25 calculation. Just letting you know that. In other words, that

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1 she is correct.

2 (The jury entered the courtroom)

3 (In open court; jury present)

4 THE COURT: Thank you, ladies and gentlemen. We'll  
5 now continue with Dr. Keram's direct examination.

6 BY MR. WIENER:

7 Q. Dr. Keram, I just have a few more questions, and I'll be  
8 done with my examination. First of all, just backing up a  
9 little bit, the hypothetical, the statement by Mr. Boyd about  
10 the police, "They're going to kill me, they're going to kill  
11 me," when he drove onto Larch Way. I now want to ask you,  
12 hypothetically, if when Mr. Boyd drove onto Larch Way, he was  
13 making statements like, "Shoot me if you want," or asking the  
14 police to kill him --

15 A. Uh-huh.

16 Q. -- does that have any significance in your opinion? And  
17 you've already talked about the significance of the Oakland  
18 incident.

19 A. Right, yeah. If that were the case, then, you know, it's  
20 obviously evidence that he does want the police to shoot him.

21 Q. Okay. Now, I want you to assume that before the reaching  
22 motion in the car right before Mr. Boyd was shot, do you have  
23 that in mind?

24 A. Yes.

25 Q. I want you to assume that before, right before he did the

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1 final reaching into the car that he took a deep breath and had  
2 a look of determination on his face.

3 A. Uh-huh.

4 Q. If you assume that to be true, does that have significance  
5 in terms of taking a deep breath and the look of determination  
6 before the final reach into the car, and then -- yes, go on?

7 A. Yes. When I taught at the FBI academy, another one of the  
8 instructors gave a course on what he called predeath behaviors.  
9 He was -- he's now retired, but at the time he was the  
10 commander of the LA County Sheriff's Department's Hostage  
11 Negotiation Team. So he had responded to, 10 or 15 years he  
12 had done that at that time, many hundreds of call-outs for  
13 suicides in progress or incidents that ended in a person being  
14 shot by the police. He described these three predeath  
15 behaviors.

16 MR. GALIPO: Your Honor, apologize. I'm going to  
17 object as nonresponsive and calling for hearsay.

18 THE WITNESS: This was also published.

19 THE COURT: There's a question about how much of what  
20 a witness relies on that is hearsay can be actually described  
21 in detail in the record as opposed to simply a legitimate basis  
22 for the witness's opinion.

23 MR. WIENER: I could narrow it, your Honor.

24 THE COURT: Then I'll sustain the objection. Perhaps  
25 you could narrow it.

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1 BY MR. WIENER:

2 Q. Yeah, and again, without getting to the details, just based  
3 on your experience and -- your professional experience and your  
4 familiarity with the literature, does taking a deep breath and  
5 having a look of determination on your face, do you assume  
6 those to be true with respect to Mr. Boyd before the final  
7 reaching into the car before he was shot, why is it that you  
8 think that that is significant?

9 A. Because it's consistent with predeath behaviors. Behaviors  
10 that typically precede the actual final push towards  
11 precipitating the use of lethal force in these incidents.

12 Q. And does it have -- does it reflect anything about  
13 Mr. Boyd's state of mind, taking a deep breath and having a  
14 look of determination?

15 A. Yes, I meant to convey that, that he's made a final  
16 decision, that he's going to go through with it.

17 Q. Now I want you to assume that after Mr. Boyd is shot that  
18 he has a look of surprise on his face. Does that have any  
19 bearing on your opinion of suicide by police -- let me rephrase  
20 that.

21 Does that mean that this is not a suicide by police,  
22 that he had a look on his face of surprise?

23 A. Absolutely not. I would expect that anybody who was shot,  
24 whether or not it was a suicide or a suicide by police or  
25 whether or not, you know, whether anybody experienced pain of

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1 that magnitude that they would have a look of shock or surprise  
2 on their face. Even when they go to the doctor's office for a  
3 shot, we do, you know, so you can imagine what being shot by a  
4 firearm would, you know, bring about a very dramatic facial  
5 expression of surprise or shock.

6 Q. Does that mean that the person actually necessarily did not  
7 mean to be shot and now was surprised that they were shot?

8 A. No.

9 Q. So how would you -- what would that look on someone's face,  
10 in Mr. Boyd's situation, assuming the hypothetical to be true,  
11 what would that mean?

12 A. I think the best explanation for it is that he was in a lot  
13 of pain. You know. That is a reflection of a physiological  
14 event.

15 MR. WIENER: Your Honor, I have no further questions.

16 Thank you, Doctor.

17 THE COURT: Thank you. Then we'll turn to  
18 cross-examination.

19 MR. GALIPO: Thank you.

20 CROSS EXAMINATION

21 BY MR. GALIPO:

22 Q. Good morning, Doctor.

23 A. Good morning.

24 Q. How many times have you testified in court before on the  
25 specific issue of suicide by cop?

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1 A. Once.

2 Q. What year was that in?

3 A. I think it was 2001.

4 Q. Approximately six years ago?

5 A. Correct.

6 Q. That involved a case involving a gentleman named Michael  
7 Staff?

8 A. That's correct, yes.

9 Q. And that person had a weapon in their hands and was coming  
10 at the police with the weapon?

11 A. No, that's not correct. First of all, he never came at the  
12 police. Secondly, the first several times that he, what I  
13 believe attempted to be shot, he didn't have anything in his  
14 hands; and, finally, I think if he had anything in his hand he  
15 had a cell phone. He didn't have a weapon.

16 Q. It's your testimony he was unarmed when he was shot?

17 MR. WIENER: Objection. Relevance.

18 THE WITNESS: I haven't reviewed my testimony.

19 MR. WIENER: Relevance.

20 THE COURT: Overruled. The witness has discussed a  
21 number of anecdotal events and bases for her opinion. So  
22 overruled.

23 BY MR. GALIPO:

24 Q. He had been hospitalized for psychiatric -- a psychiatric  
25 condition, correct?

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1 A. That's correct, yes.

2 Q. And he had been released from the hospital and was off of  
3 his necessary medication; is that correct?

4 A. You know, I'm sorry, I haven't reviewed this case in six  
5 years. And I don't recall whether or not he had been  
6 prescribed medication and then stopped. It's entirely  
7 possible, I just don't recall.

8 Q. Do you recall discussing that case with attorney Vickie  
9 Sarmiento at the time of your deposition on April 20th of 2007?

10 A. Yes, she asked me several questions about that case, I  
11 believe.

12 Q. Do you have any record or information that Cammerin Boyd  
13 ever saw any doctor at any time for psychiatric problems?

14 A. Well, I requested psychiatric records, and the defense made  
15 a motion to obtain those records, which to my understanding you  
16 opposed, and that prevailed.

17 Q. Let me just be more direct.

18 A. Pardon me?

19 Q. Are you aware in talking to defense counsel or anyone else  
20 that Cammerin Boyd ever had any psychiatric treatment anywhere?

21 A. Well, other than what I was told when I was asked for the  
22 records, that the motion had been made which you opposed, there  
23 is a referral in the CDC records to psychiatry, but those  
24 mental health records are not included in the medical records.  
25 Typically they're kept separate. So they may have been -- they



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1 may have been not included in the medical records as a result  
2 of the motion, I don't know.

3 Q. Did you read the depositions of the family members?

4 A. Yes, I did.

5 Q. Did you see anywhere in their depositions that he had ever  
6 gone to a psychiatric doctor ever in his life?

7 A. No, I did not.

8 Q. Did you assume that to be true?

9 A. I have not reason to believe otherwise.

10 Q. Okay.

11 A. That they may not -- I had no reason to believe that his  
12 family would have known whether or not he had mental health  
13 treatment, for example, in CDC or in jail or prison or  
14 whatever. I believe that they testified to the best of their  
15 knowledge.

16 THE COURT: CDC meaning what, California Department of  
17 Corrections?

18 THE WITNESS: Yes, when he was in prison. And when he  
19 was in prison he was referred to a psychiatrist.

20 BY MR. GALIPO:

21 Q. Let's talk about that for a moment.

22 A. Uh-huh.

23 Q. You reviewed some of those records?

24 A. I reviewed the medical records.

25 Q. Related to his prison stay?

Keram - Cross

1 A. Yes.

2 Q. And you indicated that he had some medical complications  
3 while he was there?

4 A. Yes.

5 Q. Did you ever see anything in those records that indicated  
6 he was suicidal?

7 A. No, there's nothing in the records that indicates that he's  
8 suicidal.

9 Q. Did you look for that?

10 A. Of course, yes.

11 Q. Did you see in any medical records that Mr. Boyd ever,  
12 according to the records, made a suicidal ideation?

13 A. The records that would reflect that would be in the  
14 psychiatric -- in any psychiatric records, which, as I said, I  
15 don't have. There are -- when somebody enters CDC, just you  
16 know, they'll give them a screen and ask if they have suicidal  
17 ideation, and he has always said no.

18 Q. Is there any record you have ever seen, any place, any  
19 year, that indicated that Mr. Cammerin Boyd had suicidal  
20 ideations?

21 MR. WIENER: Objection. Vague as to "record." I  
22 don't know if it's limited to medical records.

23 MR. GALIPO: Let me limit it to medical records at  
24 this time.

25 THE COURT: Okay, fine.

Keram - Cross

1 A. No, there's nothing in the medical records that would  
2 indicate that he had suicidal ideation.

3 Q. Any knowledge that you had prior to May 2nd, 2004, which  
4 I'll talk about in a moment, the Oakland incident, that he had  
5 ever attempted to commit suicide?

6 A. No, there's nothing in the records that indicates a suicide  
7 attempt.

8 Q. The incident with his -- in which he lost his legs happened  
9 in 1993.

10 A. Yes.

11 Q. Did he attempt suicide between 1993 and 2000?

12 A. No.

13 Q. Any attempt at suicides at any time that you're aware of  
14 before May of 2004?

15 A. No.

16 Q. And this includes the time that he was in jail?

17 A. Yes, correct. Of course that's something that I looked  
18 for. But as I said earlier, people who commit suicide, about a  
19 third of them don't have a psychiatric history.

20 Q. The other two-thirds do?

21 A. Correct.

22 Q. So if this was a suicide-by-cop case, this would be in the  
23 minority on that issue?

24 MR. WIENER: Objection, lack of foundation.

25 THE COURT: Overruled.

Keram - Cross

1 A. I'm trying to think of whether or not -- yes, it would be  
2 in the minority. About two-thirds of people in the Hudson  
3 study who were thought to have committed a suicide by police  
4 had a psychiatric or a substance abuse history. About a third  
5 did not.

6 MR. WIENER: Your Honor, the foundational objection  
7 has to do with the fact that she didn't get the psych records,  
8 so she didn't have all that information.

9 THE COURT: Ladies and gentlemen, ordinarily there is  
10 what's called a psychiatric patient privilege, and unless the  
11 patient puts their mental state in issue, ordinarily one cannot  
12 obtain those records. In this instance, the patient did not  
13 put their mental state in issue. The mental state is being  
14 raised by the other side. And so those records ordinarily  
15 wouldn't be available for that reason.

16 I think you'd agree with that.

17 THE WITNESS: Yes, although I have done other cases,  
18 this --

19 THE COURT: Leaving out whatever your previous  
20 experiences were.

21 THE WITNESS: Sure.

22 THE COURT: The objection is overruled. This witness  
23 has testified at great length about statistics. It is  
24 legitimate to cross-examine her about them.

25 MR. GALIPO: Thank you.

Keram - Cross

1 BY MR. GALIPO:

2 Q. Do you have the name of any doctor or medical facility  
3 where you believe Cammerin Boyd received psychiatric treatment?

4 A. Other than the notation that he was referred to a  
5 psychiatrist in the CDC, I would have no way of knowing where  
6 he may have received psychiatric treatment.

7 Q. And that referral you're talking about, was that back in  
8 like 1996?

9 A. I'd have to look in the records.

10 Q. You obviously never met Cammerin Boyd.

11 A. No, I never did.

12 Q. Usually it's helpful to meet someone to come up with a  
13 diagnosis, would you agree?

14 A. It's helpful to do that, yes.

15 Q. Now, you work with various police agencies?

16 A. I've worked -- I provide training to various police  
17 agencies, yes.

18 Q. Including the city -- the police department for the City  
19 and County of San Francisco?

20 A. That's correct, yes. The Mental Health Board hires me to  
21 provide that training.

22 Q. Did you testify that you provide training on the issue of  
23 suicide by cop?

24 A. Yes, that's correct.

25 Q. Do you know if you ever provided such training to either

Keram - Cross

1 Officer O'Malley or Officer Paine?

2 A. No, I have no way of knowing that.

3 Q. Now, you mentioned some factors, one would be animosity  
4 towards police officers?

5 A. Yes.

6 Q. Would you agree that a lot of people don't like police  
7 officers for various reasons?

8 A. Yes, I would agree with that.

9 Q. And that doesn't mean that because someone doesn't like the  
10 police they want to be killed by the police, does it?

11 A. No, absolutely not.

12 Q. You mentioned in general setting up a situation where this  
13 could be civil litigation for the family related to the  
14 shooting on Larch Way. Do you recall that testimony?

15 A. Yes.

16 Q. First of all, did you have information that the --  
17 Mr. Boyd's family, parents, for example, were in financial  
18 straits that they needed to have a lawsuit?

19 A. No. No. That wasn't the basis for that opinion. It was  
20 the pattern of suing the police in past actions. That was the  
21 basis for that.

22 Q. Well, let me ask you this: If you know, was there a  
23 pending case against the Oakland Police Department at the time  
24 of his death?

25 A. I don't know -- are you referring to something that would

Keram - Cross

1 have stemmed from the May 2nd --

2 Q. No.

3 A. -- occurrence?

4 Q. No.

5 A. Something before. No, I'm sorry, I don't recall from the  
6 records. I know that there was some type of pending case, but  
7 I don't remember where it was from.

8 Q. Well, you would agree that if someone had a pending case  
9 and then they get killed, they can't pursue that case or  
10 receive any money under the law?

11 MR. WIENER: Objection, your Honor, calls for a legal  
12 conclusion; lacks foundation.

13 MR. GALIPO: I'll establish foundation.

14 THE COURT: Overruled.

15 Q. You may answer if you know.

16 A. I don't know the law about that, no.

17 Q. So you don't know in California, for example, if someone  
18 had a personal injury case and they died, whether that case  
19 dies with them, if you will?

20 A. No, I don't know the answer to that.

21 Q. Regarding the Oakland incident, is it your testimony that,  
22 based on your review of the records, that Mr. Boyd was telling  
23 the police to the effect of "Kill me," or "You can kill me,"  
24 after he was handcuffed?

25 MR. WIENER: Objection, your Honor, improper use of a

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1 hypothetical, it was posed as a hypothetical.

2 THE COURT: To the extent the witness offered an  
3 opinion of what happened or what might have happened at the  
4 time of the events in question --

5 MR. GALIPO: Let me --

6 THE COURT: -- you can ask her if somebody said  
7 something at a particular time, would that change your opinion.  
8 That's essentially a hypothetical. If it's in the record as to  
9 the timing. If it's not in the record, then maybe just  
10 question as to whether the timing is or isn't relevant.

11 I will overrule.

12 Q. Let me go back for a moment. At some point you wrote a  
13 Rule 26 report in this case, correct?

14 A. Correct.

15 Q. And you had read various depositions before writing that  
16 report?

17 A. Yes, I did.

18 Q. Including depositions of police officers and percipient  
19 witnesses?

20 A. Yes.

21 Q. And you relied on the information in those depositions to  
22 give your report?

23 MR. WIENER: Objection, irrelevant; foundation. This  
24 is trial, it's not about the depositions. And hearsay, your  
25 Honor.



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1 THE COURT: I have to think about it. For  
2 cross-examination purposes, if the witness is -- they're not  
3 relying on it here in court -- I'll sustain the objection.

4 BY MR. GALIPO:

5 Q. Are your opinions any different now than they were at the  
6 time you wrote your Rule 26 report?

7 A. No.

8 Q. You also gave your opinions at deposition, correct?

9 A. Correct, yes.

10 Q. When you gave your opinions in your report, was the  
11 information that you had to base it on documents you were  
12 provided?

13 MR. WIENER: Objection, your Honor.

14 THE COURT: I will overrule as to that general  
15 question.

16 A. I'm sorry, can you reask the question?

17 THE COURT: The only question is, did you base your  
18 opinion before the trial on documents you were provided.

19 Q. Just a yes or no.

20 A. I based it on my review of those documents, yes, my  
21 opinions, yes.

22 Q. You didn't base your opinions at least at the time of your  
23 report in hypotheticals?

24 A. No, not the hypotheticals that were posed to me, no.

25 Q. And then at your deposition you answered to the best of

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1 your ability whatever question was asked you?

2 A. Correct, yes.

3 Q. I want you to assume these facts: Assume that -- strike  
4 that.

5 Let me go back to the Oakland incident. You made an  
6 assumption in your analysis that the same vehicle was involved  
7 in the first go-round and the second go-round that you  
8 described when you described him being in one pursuit and then  
9 a second pursuit?

10 MR. WIENER: Objection, lacks foundation. I don't  
11 know if he's asking her to assume something or not.

12 THE COURT: I think the question started to get a  
13 little confusing. Are you asking her whether she understood  
14 there were two different vehicles or the same vehicle, or you  
15 want her to assume they're different or the same?

16 BY MR. GALIPO:

17 Q. Okay. In answering the hypothetical question about the  
18 Oakland incident that Mr. Wiener asked you, did you assume in  
19 answering that question that it was the same vehicle in the  
20 Oakland, May 2nd, 2004, incident from the first pursuit to the  
21 second pursuit?

22 A. When you say the first and second pursuit, do you mean  
23 within the Oakland pursuits?

24 Q. Yes, within that short timeframe.

25 A. So where both pursuits occurred in Oakland on the 2nd, one

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1 right after the other -- I want to make sure we're not talking  
2 about the San Francisco.

3 Q. Do you have any idea about the minutes in between or you're  
4 not sure?

5 MR. WIENER: Your Honor, he should proceed by  
6 hypothetical.

7 THE COURT: I will overrule. Is the timing -- do you  
8 want to find out if the timing is important or the difference  
9 in vehicles?

10 MR. GALIPO: Yes, both.

11 THE COURT: Okay, fine. All right.

12 THE WITNESS: So you're asking me two questions, one  
13 about the time and one about the vehicle?

14 BY MR. GALIPO:

15 Q. Yes.

16 A. In the hypothetical, Mr. Wiener did not indicate that there  
17 were two different vehicles, so I assumed that it was the same  
18 vehicle.

19 Q. And how about with regard to the timing. Did you have any  
20 understanding when you answered the question as to how much  
21 time there was in between?

22 A. I believe Mr. Wiener said there was 20 minutes in between,  
23 if I recall correctly.

24 Q. Now, let's assume that when his vehicle was finally --  
25 strike that.

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1 Do you have any information that before being  
2 ultimately stopped by the police in Oakland, he was committing  
3 any criminal activity that day in Oakland.

4 MR. WIENER: Objection, hearsay, hypothetical.

5 MR. GALIPO: I'll go by hypothetical.

6 THE COURT: You don't necessarily have to. That  
7 question is almost ambiguous and almost calls for a legal  
8 conclusion as well.

9 Q. Let's assume that Mr. Boyd was unarmed on May 2nd, 2004.

10 A. Uh-huh.

11 Q. Had not waved a gun at anyone and was at some point stopped  
12 by the Oakland police. Do you have that in mind so far?

13 A. Yes.

14 Q. And let's assume that he was asked to get out of the car  
15 and eventually get down on the ground, and he complied. Do you  
16 have those facts in mind?

17 A. Yes.

18 Q. And prior to being handcuffed, let's assume that he was  
19 roughed up a little bit by the Oakland police officers which  
20 led to some injuries that he had on his body before the  
21 shooting events.

22 MR. WIENER: Objection, lacks foundation; and there's  
23 no good faith basis for that hypothetical, your Honor. No  
24 testimony to that fact.

25 THE COURT: Well, the roughed-up part.

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1 MR. GALIPO: I can establish some foundation perhaps.

2 THE COURT: I think there may be testimony there was a  
3 struggle of some sort perhaps in the earlier event. But I  
4 don't know that anybody said that anybody roughed anybody up.  
5 I'm going to sustain the objection.

6 BY MR. GALIPO:

7 Q. You read Dr. Smith's deposition, correct?

8 A. Yes.

9 Q. You read the autopsy report, correct?

10 A. Yes.

11 Q. By the way, you didn't see any finding by Dr. Smith that  
12 this was suicide by cop, did you?

13 MR. WIENER: Objection, your Honor, hearsay.

14 THE COURT: I think it would be argumentative. Is  
15 there any indication that a coroner or medical examiner would  
16 ever be asked to make that kind of a statement?

17 Q. Let me ask it in a different way. Is there any  
18 recommendation that you're aware of by Dr. Smith for a  
19 psychological autopsy to be done?

20 A. No.

21 Q. Did you note in reviewing the report of Dr. Smith that  
22 there was some injuries on Mr. Boyd that had coagulin or  
23 scabbing on them indicating that they predated the May 5th  
24 event?

25 A. Based on my recollection as I sit here, I don't recall

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1 that. It's entirely possible. I haven't looked at the autopsy  
2 in a few weeks. If you like, you could point me to where it  
3 is. I have no reason to doubt what you're saying. I just  
4 don't recall it sitting here.

5 Q. Well, let me ask you this: The comments that you attribute  
6 to Mr. Boyd after he was handcuffed in the Oakland incident, do  
7 you have an understanding he was upset at that time?

8 MR. WIENER: Objection, your Honor, he should proceed  
9 by hypothetical.

10 THE COURT: Overruled. In other words, the witness  
11 has given her opinion based on certain hypotheticals. In  
12 giving that opinion she may have filled in certain blanks  
13 essentially with assumptions on her part. Overruled.

14 A. I'm sorry, could you ask the question again?

15 Q. Based on the hypothetical that you were asked by Mr. Wiener  
16 about the events in Oakland and then Mr. Boyd making certain  
17 comments to the police to the effect "you can kill me" or words  
18 to that effect, after he was handcuffed, did you have an  
19 understanding in answering that question one way or the other  
20 whether he was upset at the time, Mr. Boyd?

21 A. Depends on what you mean by "upset."

22 Q. How about angry? Is that a better word, angry, for you?

23 A. You know, I would say he was agitated. You know.

24 Q. Okay. Did you have any belief as to why he was agitated  
25 after he was handcuffed?

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1 MR. WIENER: Objection, hearsay.

2 THE COURT: Overruled.

3 A. Well, the officers felt that he may have been intoxicated.  
4 He didn't have a toxicology test after the arrest, so we don't  
5 know whether or not he was. So that was one possibility.

6 You know. That was the possibility that I considered  
7 about what was responsible for his agitated behavior.

8 Q. Let's assume that his legs became separated or were pulled  
9 off during that event. Do you think that might have caused  
10 some agitation?

11 A. Yes.

12 Q. How about being handcuffed? Do you think to some people  
13 that might cause some agitation?

14 A. Yes. To some people that would definitely cause agitation.

15 Q. Now, do you have -- strike that.

16 Hypothetically, assuming there was a close  
17 relationship between the two daughters of Mr. Boyd and  
18 Mr. Boyd, do you have those facts in mind?

19 A. Yes. As a hypothetical, yes.

20 Q. As a hypothetical?

21 A. Yes.

22 Q. Do you have any information or facts that's inconsistent  
23 with that?

24 A. No.

25 Q. Is it your belief that Mr. Boyd wanted to be killed and

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1 leave his daughters without a father?

2 MR. WIENER: Objection, argumentative.

3 THE COURT: Well, I'll overrule.

4 A. It's my belief that Mr. Boyd suicided, and therefore, you  
5 know, he would have known that he was leaving his daughters  
6 without a father, yes. Many people who suicide have young  
7 children and they know that they're leaving those young  
8 children without a parent.

9 Q. Now, let's go to the May 5th, 2004 incident. First of all,  
10 regarding the drugs, let's assume that Mr. Boyd believed he was  
11 getting an ecstasy pill, but it turned out that it wasn't the  
12 best ecstasy pill in the world; instead of having I think it's  
13 MDMA, it had MDA with a little bit of methamphetamine in it.  
14 Do you understand that?

15 A. Yes.

16 Q. Is it your opinion that if someone was taking an ecstasy  
17 pill they would want to commit suicide afterwards?

18 A. I'm sorry, ask that again.

19 MR. WIENER: Objection, incomplete hypothetical; and  
20 it's vague.

21 THE COURT: I'm not sure I understood the question.  
22 I'll sustain.

23 Q. You, I think, gave some testimony about the drugs he had in  
24 his system.

25 A. Yes, I mentioned he had drugs in his system.



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1 Q. Is that part of the basis for your opinion?

2 A. I'm not sure how to answer that. I was certainly aware of  
3 that. To the extent that it may have disinhibited his  
4 behavior, you know, leading to him actually engaging in the  
5 event, then, yes, it would have been something I considered in  
6 forming my opinion.

7 Q. Well, okay. So you did consider that?

8 A. To the extent that it may have disinhibited his behavior,  
9 you know, and I can't say with medical certainty that it did  
10 disinhibit his behavior.

11 Q. Well, let's -- do you have any understanding as to what the  
12 amounts of drugs were in his system?

13 A. Yes.

14 Q. And let's just assume that he took what he believed to be  
15 an ecstasy pill. Are you familiar with an ecstasy pill, at  
16 least from a medical background?

17 A. Yes, I have certainly a number of patients who have used  
18 ecstasy.

19 Q. Okay. And is it your testimony that taking an ecstasy pill  
20 is a precursor to then wanting to commit suicide?

21 A. In the post-intoxication phase with ecstasy, you can see  
22 people develop suicidal ideation, and also with MDA.

23 Q. Well, you mention the post-intoxication --

24 A. I'm sorry, with methamphetamine. Yes, I'm sorry.

25 Q. You're talking about -- are you talking about

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1 post-intoxication depression?

2 A. Yes.

3 Q. Okay. Where did you pick that up from? Dr. Mendelson's  
4 report?

5 A. Oh, no, that's described in the ecstasy literature.

6 Q. You would agree that at least in terms of Dr. Mendelson's  
7 report, he couldn't say whether he was or was not experiencing  
8 post-intoxication depression because he doesn't know when the  
9 drugs were taken?

10 MR. WIENER: Objection, your Honor, it's hearsay in  
11 terms of referring to Dr. Mendelson's report.

12 THE COURT: I'll sustain.

13 Q. Do you have -- do you know when the drugs were taken by  
14 Mr. Boyd?

15 A. No, not with specificity, I don't.

16 Q. Do you have any basis for saying that, based on the amount  
17 or timing that he took the drugs, he was experiencing  
18 post-intoxication depression? Do you have any scientific basis  
19 or medical basis for saying that in this case?

20 A. No, no.

21 Q. Now --

22 A. Not to any degree of medical certainty, no.

23 Q. Let me ask you about --

24 A. Reasonable degree of medical certainty.

25 Q. You were asked some questions about a contact with a person

Keram - Cross

1 named Tiffany Williams; is that correct?

2 A. Yes. Well, I think the -- the hypothetical -- the question  
3 may have been placed to me in the form of a hypothetical.

4 Q. I don't know if the name was mentioned or not in the  
5 hypothetical, so....

6 A. Yeah.

7 Q. First of all, in terms of donuts in the street, that was  
8 important to your opinion?

9 A. That was certainly something I considered in terms of  
10 drawing yourself to police attention.

11 Q. What donuts are you referring to?

12 A. The donut in the intersection that he made.

13 Q. Let's assume that Tiffany Williams observed him making a  
14 U-turn in the intersection as opposed to doing donuts in the  
15 intersection. Do you have those facts in mind?

16 MR. WIENER: Objection, it lacks foundation as to  
17 "her."

18 MR. GALIPO: I'll rephrase it if I need to.

19 THE COURT: Okay, rephrase it.

20 MR. GALIPO: Sure.

21 Q. Let's assume that Mr. Boyd was not making donuts, in the  
22 middle of an intersection. That he made a U-turn in the  
23 intersection.

24 MR. WIENER: Lacks foundation, your Honor.

25 THE COURT: Is there any testimony from any witness in

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1 connection with the Tiffany Williams event that there was a  
2 single change that could be described as a U-turn?

3 MR. GALIPO: Her testimony in the videotape.

4 MR. WIENER: Her testimony was donuts, plural, and she  
5 described them as 360s.

6 THE COURT: Why don't you just ask whether it would  
7 have been made a difference if it were a U-turn or not, and if  
8 there's U-turn testimony, then the jurors can consider that.

9 MR. GALIPO: Thank you.

10 BY MR. GALIPO:

11 Q. Would your opinion be different if instead of doing 360  
12 donuts in the intersection, he simply turned his vehicle around  
13 by making a U-turn in the intersection?

14 A. And that's the only difference but everything else is the  
15 same?

16 Q. Let me ask you this way: Is making a U-turn in an  
17 intersection in your mind consistent with committing suicide?

18 A. If somebody called me up out of the blue and said, Somebody  
19 made a U-turn, is that a predicator for suicide, I would say  
20 no. No.

21 Q. You answered a question about a contact Mr. Boyd had with  
22 some lady, young lady who, I believe, approached his car, and  
23 he grabbed her and at some point she saw a gun. Do you  
24 remember that?

25 A. Yes.

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1 Q. Do you have an understanding whether or not the shooting at  
2 Larch Way happened -- it was dark out or light out?

3 MR. WIENER: Objection, hearsay.

4 THE COURT: Is your question do you have some  
5 understanding of the timing and the lighting?

6 MR. GALIPO: Yes.

7 THE COURT: Overruled.

8 A. Yeah, I know what the various witnesses said.

9 Q. What is your understanding, without getting into specifics,  
10 as to whether it was dark outside or still light out?

11 MR. WIENER: Objection, hearsay. He should proceed by  
12 hypothetical, your Honor.

13 THE COURT: I'll sustain.

14 Q. Let's assume that at the time of the shooting incident, on  
15 Larch Way, it was light outside still. Do you have that fact  
16 in mind?

17 A. Yes.

18 Q. And let's assume that the contact between Mr. Boyd and  
19 Tiffany Williams as described by Ms. Williams happened at  
20 nighttime, that the person was wearing a red baseball cap with  
21 some logo on the front, and the person was driving a burgundy  
22 vehicle. Do you have those facts in mind?

23 MR. WIENER: Objection, your Honor. This lacks  
24 foundation and it's also argumentative. In terms of asking her  
25 to make a credibility determination.

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1 MR. GALIPO: I haven't finished my question.

2 THE COURT: I don't know what the question is. I'll  
3 overrule the objection. You haven't finished.

4 Q. Do you have those facts in mind?

5 A. Yes, taking those hypotheticals.

6 MR. GALIPO: I'll withdraw the hypothetical and ask it  
7 in a simpler way.

8 THE COURT: Okay.

9 Q. When you answered that question, you were assuming that the  
10 incident between Mr. Boyd and this person actually happened as  
11 described?

12 A. It was posed to me as a hypothetical.

13 Q. You were assuming that it happened as described?

14 A. In the hypothetical, yes.

15 Q. You yourself don't know whether it happened or not. Is  
16 that true?

17 MR. WIENER: Objection, your Honor. Relevance.

18 THE COURT: You're asking her was she there and had  
19 personal information?

20 MR. GALIPO: I'll withdraw the question. I doubt she  
21 was there.

22 THE COURT: Okay. She was asked to assume certain  
23 facts. She wasn't asked to make a credibility determination or  
24 determine whether those facts are actually correct. But  
25 assuming that those are facts, what's her opinion based on.

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1 BY MR. GALIPO:

2 Q. With regards to a contact with another woman, I want you to  
3 assume that Mr. Boyd told the other woman to leave her keys in  
4 her car, and he told her to get in his car and he wanted to get  
5 in her car. Do you have those facts in mind?

6 MR. WIENER: Objection, this lacks foundation as to  
7 Miss Hogan's testimony.

8 THE COURT: This may be an inference that you want  
9 someone to draw from the behavior, but it's not actually a fact  
10 in evidence. All that's in evidence is purportedly what was  
11 said from Miss Hogan.

12 Q. I'll rephrase. Let's assume that a woman was told by  
13 Mr. Boyd to leave her keys in her car and the woman had the  
14 impression that Mr. Boyd wanted to switch cars with her.

15 MR. WIENER: Objection, lacks foundation. She never  
16 said that.

17 THE COURT: All right. I'll sustain. If you want to  
18 ask, would it make any difference if this was a carjacking or a  
19 car trade, instead of an attempted kidnap or something like  
20 that, you could ask the witness that.

21 MR. GALIPO: That's fine. Let's do it that way.

22 Q. Would it make a difference in your analysis if instead of  
23 some kidnapping or carjacking, it was an attempted trade of  
24 vehicles?

25 A. That's the only difference in the whole event is that this

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1 one interaction was an attempted carjacking.

2 Q. Was an attempted trade of vehicles, would that in your mind  
3 be consistent with suicide by cop, wanting to trade vehicles?

4 A. Am I only looking at whether or not somebody wanted to  
5 trade a vehicle?

6 Q. Yes.

7 A. And I'm not looking at anything else, again somebody calls  
8 me up and says, Somebody says they want to trade vehicles, is  
9 that consistent with suicide by cop?

10 Q. Correct.

11 A. I would tell them that I needed to know other information  
12 before I can form an opinion about that.

13 Q. Okay. Now, I want to get to Larch Way.

14 A. Uh-huh.

15 Q. Let's assume that before Mr. Boyd got to Larch Way a police  
16 officer shot at him and the bullet struck his car. Do you have  
17 those facts in mind?

18 A. Yes.

19 Q. In your mind, might that be a reason that Mr. Boyd told  
20 residents at Larch Way that the police were trying to kill him?

21 A. Yes. It may be.

22 Q. And did you consider that in your analysis?

23 A. Yes.

24 Q. Now, let's assume the following facts: Let's assume on  
25 Larch Way at some point Mr. Boyd was told to stop his vehicle



Keram - Cross

1 and he eventually stopped. Do you have that in mind?

2 A. Yes.

3 Q. On Larch Way.

4 A. Yes.

5 Q. Let's further assume that Mr. Boyd was told to put his  
6 hands out the open driver's window of the vehicle and he did.  
7 Do you have that in mind?

8 A. Yes.

9 Q. Let's further assume that Mr. Boyd was told to get out of  
10 the vehicle and he did.

11 A. Yes.

12 Q. Let's further assume Mr. Boyd was told to put his hands up  
13 and he did. Do you have that in mind?

14 A. Yes.

15 Q. Let's further assume that Mr. Boyd got out of the car and  
16 did not have a gun in his hands and did not have anything that  
17 appeared to be a gun on his person. Do you have that in mind?

18 A. Yes.

19 Q. Now, with regard to that activity that I just described in  
20 my hypothetical, in your mind, is that consistent or indicative  
21 of suicide by cop?

22 MR. WIENER: Objection, incomplete hypothetical --  
23 apologize to startling you, your Honor.

24 THE COURT: I was trying to follow the question and  
25 you jumped up.

Keram - Cross

1 MR. WIENER: Objection, it's vague; incomplete  
2 hypothetical as to whether he was consistently following the  
3 commands.

4 MR. GALIPO: No, whether consistently, suicide by  
5 cop --

6 THE COURT: Let's not get into a discussion here.  
7 Would you just start your question over, okay, if you can?

8 MR. GALIPO: I'll try.

9 THE WITNESS: This is why I had Mr. Wiener break his  
10 down.

11 THE COURT: What I want to avoid here is each side  
12 making a closing argument during the hypotheticals to this  
13 witness. All right. I endeavored to stop that general format  
14 with Mr. Wiener, and you also should not try and restate the  
15 whole record. You can ask the witness questions about would it  
16 make any difference "X" and "Y" to the case, or "Z" -- but go  
17 ahead with your hypothetical instead, and we'll see.

18 BY MR. GALIPO:

19 Q. I'll back up one step. Assume hypothetically that Mr. Boyd  
20 was in his car on Larch Way before getting out, and police  
21 officers were shooting at the car from both sides. Do you have  
22 that in mind?

23 A. Wait, I'm sorry.

24 THE COURT: Why don't we say they're shooting at him,  
25 so you don't get into a problem of --

Keram - Cross

1 MR. GALIPO: That's the problem with doing the hypos  
2 as opposed to her review of the information.

3 THE COURT: I'm just saying that, you know, to avoid  
4 Mr. Wiener jumping up and scaring me again.

5 MR. GALIPO: Okay.

6 THE COURT: In other words, if you don't get too  
7 detailed, there's less of a chance he's going to jump up.

8 BY MR. GALIPO:

9 Q. In this case, without getting into specifics, do you have  
10 an understanding that shots were fired at the SUV while it was  
11 on Larch Way before he got out?

12 A. Yes.

13 Q. In your opinion, did Mr. Boyd do anything to make the  
14 police fire at him so that they would kill him while he was in  
15 the vehicle?

16 MR. WIENER: Objection, hearsay.

17 THE COURT: If there is behavior that you feel would  
18 bear on her opinion, you can put it before her by way of an  
19 assumption, or if you want to just ask her, is there anything  
20 that she's been told in the hypotheticals that suggests it; and  
21 if she says no, then you can add things to it if you want to.  
22 But I'm going to try and give you some idea here so we don't  
23 get too hung up and bogged down.

24 MR. GALIPO: That's fine. Okay.

Keram - Cross

1 BY MR. GALIPO:

2 Q. Do you have my hypothetical? Hypothetically, if the police  
3 were shooting at Mr. Boyd's vehicle on Larch Way, before he got  
4 out.

5 A. Uh-huh.

6 Q. Do you have any opinion that he did anything to incite that  
7 to happen while he was on Larch Way?

8 MR. WIENER: Objection, hearsay; incomplete  
9 hypothetical. Is he asking her to assume that, or is he asking  
10 her what happened?

11 THE COURT: I'm going to sustain as to the form of the  
12 question.

13 MR. GALIPO: I'll try it a different way.

14 THE COURT: I think that there may be a way -- I think  
15 I understand what you're trying to ask. But you know, I think  
16 that you would have to ask it differently than you're asking  
17 it. All right, sustained.

18 BY MR. GALIPO:

19 Q. You have an understanding that after the vehicle was on  
20 Larch Way and before Mr. Boyd got out of the vehicle that  
21 police were shooting at his vehicle with him in it. Is that  
22 correct?

23 A. Am I in the hypothetical or not?

24 Q. Just your general understanding without getting into  
25 specifics or the facts.

Keram - Cross

1 A. Yes.

2 Q. Do you think Mr. Boyd was wanting to commit suicide by cop  
3 at that time while he was sitting in the vehicle and the  
4 officers were shooting at him?

5 A. I think that he wanted to commit a suicide by police, you  
6 know, my belief is that he did, you know, at the time that he  
7 started the whole event, so it would have continued all the way  
8 through to the end, recognizing that there might have been some  
9 ambivalence about it, but that he was suicidal throughout the  
10 events.

11 Q. So at the time that he was in the car and the officers were  
12 shooting at him, do you think that he did anything at that  
13 moment to precipitate that?

14 MR. WIENER: Objection, your Honor. It's hearsay; and  
15 it's also beyond direct examination. Should proceed by  
16 hypothetical, your Honor.

17 THE COURT: It's coming out like a question of a lay,  
18 factual determination, is the best way I can characterize what  
19 you seem to be trying to elicit. You may not be trying to  
20 elicit that, but then you have to frame your question  
21 differently. Sustained.

22 BY MR. GALIPO:

23 Q. Okay. You said suicide by police is an intent to provoke  
24 lethal force by the police. It's the intent by the person to  
25 provoke the police to use lethal force against them?

Keram - Cross

1 A. The intent is present in that, yes.

2 Q. And lethal force you understand was being used on Mr. Boyd  
3 on Larch Way while he was in the car before he got out,  
4 correct?

5 A. Correct.

6 Q. I'm asking you, is it your opinion that he intended the  
7 police to use that lethal force against him on Larch Way while  
8 he was seated in the car?

9 A. You know, I think that he had the intent at that time. As  
10 I said, I think he had the intent all the way through the  
11 entire event.

12 Q. So that would include while he was sitting in the car and  
13 they were shooting at him?

14 A. Correct. You know, he had the intent all the way through.

15 Q. Okay.

16 A. I'm trying to be as precise as possible here, and I'm only  
17 limiting it to his state of mind, not anything else. In my  
18 response to that.

19 Q. Let me ask you this: Assume that after shots were fired at  
20 the car, Mr. Boyd got out of the car, raised his hand, took his  
21 shirt off, put his hands back up in the air, and said, "Please  
22 don't kill me, I don't want to die." Do you have those facts  
23 in mind?

24 A. Yes.

25 Q. Is that in your mind consistent with somebody who wants to

Keram - Cross

1 be killed by the police if they tell the police, "Please don't  
2 kill me, I don't want to die"?

3 A. You can't say based on those facts alone whether or not  
4 this is indicative of a suicide by police attempt. There are  
5 other suicide-by-police events that have those facts and  
6 similar facts. So without looking at more -- again, I usually  
7 like to take this as sort of sitting in my office, somebody  
8 calls me up and says, Here's what you know about the case and  
9 this is all you know. Is this a suicide by police or not? And  
10 this is all you know. You can't say one way or the other.  
11 Because you don't have all the facts.

12 Q. Did you ever see a case in that study, that Hudson study,  
13 where the person told the police, Please don't kill him, and  
14 they killed him anyways?

15 MR. WIENER: Objection, hearsay, your Honor.

16 THE COURT: I'm sorry?

17 MR. GALIPO: She relied on the study.

18 THE COURT: What was the ground of the objection?

19 MR. WIENER: Hearsay.

20 THE COURT: No, overruled. Hudson has been discussed  
21 in great detail by the witness on direct examination.  
22 Overruled.

23 A. There was no mention of that action in any of the decedents  
24 in the Hudson study. I'm trying to recall the other studies.  
25 I'm reviewing this in my head here.

Keram - Cross

1 Q. You would agree --

2 MR. WIENER: Objection, she wasn't finished. He cut  
3 her off.

4 MR. GALIPO: I apologize.

5 MR. WIENER: She just said she's thinking in her head.

6 Q. Let me know when you're complete.

7 A. Right. I can't recall, as I'm sitting here, having read  
8 that anybody made that comment in any of the suicide-by-police  
9 literature.

10 Q. You would agree that asking the police not to shoot you is  
11 normally, in your opinion, contrary to wanting to be shot by  
12 them?

13 MR. WIENER: Objection, incomplete hypothetical.

14 Q. Would you agree, Doctor?

15 A. I think outside the context of a potential  
16 suicide-by-police evaluation, normally one would consider that.  
17 However, because there are instances in which, you know, people  
18 may be ambivalent or playing cat and mouse with the police or  
19 having other reasons for making that statement that there's  
20 certainly very credible reasons that people could make that  
21 statement in suicide-by-police cases.

22 Q. But you've never seen one?

23 A. The only reason I'm hesitating is there are a couple of  
24 earlier studies that relied on a large number of reports that I  
25 haven't reviewed recently that may have discussed that.



Keram - Cross

1 Q. You have reviewed suicide-by-cop cases where the person  
2 basically is getting in a shootout with the police with the gun  
3 in their hand, correct? You've reviewed cases like that,  
4 correct?

5 A. I'm trying to think outside of the literature if I've ever  
6 had a case myself, either in the research that I've done or in  
7 civil litigation or with one of my patients, where somebody --  
8 how did you put it?

9 Q. How about include the literature.

10 A. Oh, including the literature, absolutely, yeah.

11 Q. In fact, in the literature, it's described where the people  
12 are asking the police to kill them?

13 A. Yes.

14 MR. WIENER: Objection, your Honor, incomplete  
15 hypothetical, as to what percentage.

16 MR. GALIPO: I didn't ask the percentage.

17 THE COURT: Anyway. Overruled.

18 A. Yes, it's described in the literature that people have  
19 asked the police to shoot them in suicide-by-police scenarios.

20 Q. And they come out towards the police with a weapon in their  
21 hands and they charge the police, things of that nature,  
22 correct?

23 A. In the Hudson study, I believe it was 57 percent of people  
24 had a weapon in their hand that they did not drop after the  
25 police told them to drop it.

Keram - Cross

1 Q. We don't have that situation in this case, would you agree,  
2 that someone had a weapon in their hand, the police told them  
3 to drop it and they failed to do so?

4 A. No, it's more similar to the 43 percent of cases where  
5 people did not have a weapon in their hand.

6 Q. Let me ask you this: Did you mention in direct examination  
7 that there's a lot of police agencies or organizations that are  
8 publishing articles on suicide by cop?

9 A. No, that's not what I stated.

10 Q. Okay, I misunderstood you. Where are the source of these  
11 articles as you understand them currently?

12 A. There are things like, you know, there are magazines like  
13 *Police Chief* and other things like, you know, *First Responder*  
14 type magazines where I've seen these published.

15 Q. Don't you think that the argument of suicide by cop is a  
16 convenient argument for police to make when they shoot an  
17 unarmed man --

18 MR. WIENER: Argumentative.

19 MR. GALIPO: I'm not done with my question.

20 MR. WIENER: It's beyond argumentative, your Honor.

21 THE COURT: It gets argumentative because the --  
22 without going into why, it's argumentative. I'll sustain.

23 MR. GALIPO: I'll ask another question.

24 THE COURT: If I tell you why it's argumentative, it  
25 will make your argument. Okay. All right.

Keram - Cross

1 BY MR. GALIPO:

2 Q. With regard to the Hudson study, you're saying a large  
3 number of the people in that study were unarmed and shot and  
4 killed by the police?

5 A. 43 percent -- well, also, you have to understand something  
6 in the Hudson study, and I think I may have given a  
7 misimpression. In the Hudson study not everybody who was shot  
8 was actually killed. It was about 50/50. Okay. So I just  
9 want to clarify that.

10 Q. How many people did you say were in that study,  
11 400-something?

12 A. 437 total.

13 Q. So if someone took the appropriate percentage, you might  
14 have 150 to 200 people in that study that were unarmed and shot  
15 by the police?

16 A. There were 437 total, and I think 44 of them were thought  
17 to be suicides by police by the study's selection criteria.

18 Q. And who did the study; was it the sheriff's department?

19 A. No, it was actually kind of interesting. An emergency room  
20 from the university who got interested in the topic and looked  
21 for an agency that would help him to review their records.

22 Q. How many hours would you say altogether you've worked on  
23 this case?

24 A. Somewhere in the neighborhood of a hundred hours.

25 Q. A hundred hours. What do you charge per hour for your

Keram - Cross

1 time?

2 A. \$400 an hour.

3 Q. 400 an hour. So you've already -- you're about \$40,000?

4 A. I think that I've billed, I must have counted my hours  
5 wrong. I haven't billed for my last piece of work here, but I  
6 think I've billed somewhere around \$29,000.

7 Q. And you've been paid that so far?

8 A. I received -- I've received about \$21,000 so far, I think.

9 Q. You're waiting for some of the balance?

10 A. For one of the bills I sent out, yes, hasn't been paid yet.  
11 And I haven't finished billing.

12 Q. I want to give you some hypotheticals after Mr. Boyd took  
13 his shirt off and raised his hands. Let's assume,  
14 hypothetically, that he was leaning back against the open door  
15 area of the car with his hands up, and he was shot. Do you  
16 have that in mind?

17 A. Yes.

18 Q. Is that consistent with suicide by cop in your opinion?

19 A. Are you asking me just to consider only that one --

20 Q. Everything you know about Mr. Boyd starting from 1993 all  
21 the way up until Larch Way. Do you have that in mind?

22 A. Yes.

23 Q. And he's out of the car now. We already talked about the  
24 hypothetical where he steps out of the car, puts his hands up,  
25 takes his shirt off. There's some mention about him taking

Keram - Cross

1 some steps towards the rear of the vehicle and then back to the  
2 open driver's door area. Do you have the point in time I'm  
3 referring to now?

4 Now, let's assume that he then leans back against the  
5 car somehow with his hands up.

6 A. Uh-huh.

7 Q. Do you have those facts in mind?

8 A. Yes.

9 Q. And let's assume in that position he's shot?

10 A. And he's been in that position long enough for the officers  
11 to know that he has his hands up, that he hasn't just, you  
12 know, turned around and kind of in that position (indicating).

13 Q. Right.

14 A. And the officers have registered that his hands are up and  
15 he's not moving.

16 Q. Well, one would hope so. He's in that position for at  
17 least several seconds.

18 A. Uh-huh.

19 Q. Do you have that in mind?

20 A. Uh-huh.

21 Q. Is that a yes?

22 A. Yes. I'm sorry.

23 Q. We'll see "uh-huh" later on, we won't know what you meant.

24 Assuming those facts to be true, do you think him  
25 having his hands up and getting shot is consistent with suicide

Keram - Cross

1 by cop?

2 MR. WIENER: Objection, it's vague; incomplete  
3 hypothetical; and hearsay, because it asks her everything she's  
4 reviewed as opposed to what she's assuming here in court.

5 THE COURT: Do you want her to assume everything she's  
6 been asked to assume on the record and then add that?

7 MR. GALIPO: Yes.

8 THE COURT: Without restating, can you answer the  
9 question?

10 THE WITNESS: If I assume that the officers registered  
11 that his hands were up and they shot him at that time, he was  
12 not moving, he had not just come to that position and he wasn't  
13 appearing to start to move, then I would say no, that that's  
14 not consistent with a suicide by police, if you only look at  
15 that particular point in time.

16 BY MR. GALIPO:

17 Q. For purposes of your analysis --

18 A. It doesn't mean that that behavior wouldn't be exhibited  
19 during the course of a suicide by police. Because it certainly  
20 has been and it's been described.

21 Q. For purposes of your analysis, you're not trying to  
22 determine what the officers were thinking, are you?

23 A. No.

24 MR. WIENER: Objection, relevance, your Honor.

25 THE COURT: Overruled.

Keram - Cross

1 Q. You said that it depends on whether it registered to the  
2 officer or not?

3 A. Right.

4 Q. You're not really considering what is registering or not to  
5 them, are you?

6 A. No, but let me think about why I asked that. I guess I  
7 wanted -- because people do surrender for a variety of reasons  
8 in the course of suicide-by-police incidents, you know, whether  
9 they're playing cat and mouse with the police or whether  
10 they're ambivalent or other reasons. I guess I wanted to know  
11 whether or not he was fixed in that position for some period of  
12 time, when he was shot, whether or not it was long enough, you  
13 know, for the -- for him not to be coming right out of a  
14 position where he was lunging for something, which is, you  
15 know, common in these incidents, or wasn't -- you know, the  
16 officer didn't foresee that he was about to go for his -- he  
17 was looking for things like that.

18 Q. Okay.

19 A. Because surrendering is actually described in the  
20 literature. Putting hands up is actually described in the  
21 suicide-by-cop literature and has been present in other cases  
22 that I've done.

23 Q. Doctor, I'm going to try to finish my exam of you within 10  
24 or 15 minutes, so I want to just stick to some specific  
25 questions, if you could try to keep them in mind.

Keram - Cross

1 MR. WIENER: Objection, your Honor, she's responding  
2 to his very broad questions.

3 THE COURT: Well, I'll overrule, and hold Mr. Galipo  
4 to his statement in his last, I guess, statement on the record.

5 MR. GALIPO: I guess I will have to.

6 THE COURT: You don't have to --

7 THE WITNESS: I'm just trying to be as complete in my  
8 answers as I can be.

9 THE COURT: Ordinarily I might sustain your objection,  
10 but then if I do, then we have lost his commitment to be  
11 through quickly, so overruled.

12 MR. WIENER: Partial objection, your Honor.

13 THE COURT: All right, overruled.

14 BY MR. GALIPO:

15 Q. Hypothetically, everything you've been asked to assume  
16 during the course of your examination today, and now we're up  
17 to the time he's outside the open driver's door area of the  
18 car, leaning back with his hands up, let's say at least three  
19 seconds. Do you have those facts in mind?

20 A. Yes.

21 Q. Is that consistent with, in your mind, Mr. Boyd wanting to  
22 be shot by the police at that time?

23 A. Again, you don't know. Because -- you know, it depends on  
24 what he did before and after. If that was the only thing that  
25 he had ever done.



Keram - Cross

1 Q. Well, everything up to that point that you've been asked to  
2 assume so far, you now have him standing in the open driver's  
3 door area of the car leaning back with his hands up?

4 A. Uh-huh.

5 Q. Do you consider someone in this scenario standing, leaning  
6 back with their hands up, exhibiting signs of wanting to be  
7 shot by the police at that time?

8 A. I would say that you can't determine his long-term intent  
9 over the course of that episode.

10 Q. At that moment?

11 A. At that point in time.

12 Q. At that time?

13 A. At that time, he may still intend to commit a suicide by  
14 police. If he allows, you know, if he keeps his hands in the  
15 air and continues to follow commands for the rest of the  
16 incident, that allows him to be taken into custody safely,  
17 then, you know, then you would say something else. But you  
18 know, subsequent behavior -- you can comment on his behavior,  
19 but you can't comment on his intent in your hypothetical.  
20 That's the best way to answer it.

21 Q. So you don't know his intent?

22 MR. WIENER: Objection, vague.

23 THE COURT: Do you mean at that very moment that  
24 you've described with the hands up?

25 MR. GALIPO: Yes.

Keram - Cross

1 A. At that very moment, my belief is that he had the intent  
2 all the way through the episode, and I can't say, based on what  
3 you told me, that he changed his intent.

4 Q. Didn't you tell us in your testimony that the person has to  
5 do something to incite the police to shoot him at that moment?

6 A. Yes.

7 Q. What if a person is standing, leaning back with their hands  
8 up, would a person be doing that to incite the police to shoot  
9 them at that moment?

10 MR. WIENER: Objection, incomplete hypothetical.

11 THE COURT: Overruled.

12 A. I think I've answered your question.

13 Q. That's a new one, I think.

14 MR. WIENER: He's interrupting her, your Honor.

15 THE COURT: Go ahead and answer it once more in case.

16 A. You're asking about behavior, and I'm talking about intent.

17 Q. No. Doctor, I'm trying to stick with my 15 minutes.  
18 Here's what I'm asking. I'm trying to make this simple.

19 MR. WIENER: And, your Honor, my objection is only  
20 that -- I'm glad that it's 15 minutes.

21 MR. GALIPO: Well, it's not.

22 MR. WIENER: Doesn't mean he should be instructing the  
23 witness not to fully answer his question.

24 THE COURT: Please pose a question. And don't argue  
25 with the witness about whether she has or hasn't answered it.

Keram - Cross

1 If you don't feel the answer is responsive, you can ask that it  
2 be stricken as nonresponsive. If you just want to follow up  
3 with another question, you may do that as well.

4 BY MR. GALIPO:

5 Q. Okay. You told us that the person to be wanting to commit  
6 suicide by cop needs to take some type of action at that moment  
7 to incite the police to use deadly force against him, correct?

8 A. Yes.

9 Q. I'm asking you standing up, leaning back with your hands  
10 up, at that moment is he doing anything to incite the police to  
11 shoot him?

12 A. No, if that's what's happening in that moment -- that  
13 moment is not a moment in which he is provoking lethal force.

14 Q. And if the incident happened that way, hypothetically, you  
15 would not say this was suicide by cop, would you?

16 A. Again, prefacing it with him not giving a perception that  
17 he was moving or about to move.

18 Q. The hypo I gave you.

19 A. That he is just standing still with his hands raised.

20 Q. In that hypo.

21 A. Like I said, barring him giving any indication or  
22 perception that somebody would have that, you know, he had just  
23 gotten into that position or he was coming out of that  
24 position, I can't think of at least at this point of, you know,  
25 something that would suggest that that was a suicide by cop if

Keram - Cross

1 he was just shot while his hands were up.

2 Q. Okay. Now, same hypothetical, everything up to that point,  
3 instead his hands are up, but he's moving down into a seated  
4 position with his hands up. Do you have that in mind?

5 A. Yes.

6 MR. WIENER: Objection, lacks foundation.

7 MR. GALIPO: Mario Roger's testimony, your Honor.

8 THE COURT: Again, ladies and gentlemen, we've had a  
9 lot of testimony from a variety of witnesses. In the interest  
10 of time, and keeping my instructions to you earlier about  
11 hypotheticals, I'll overrule the objection.

12 BY MR. GALIPO:

13 Q. Do you have that in mind?

14 A. Yes.

15 Q. Assuming that everything from before his hands are up but  
16 now from a standing or leaning back position, he's now  
17 beginning to move into a seated position, do you think that is  
18 a suicide by cop?

19 A. Yes, I think that's more indicative of suicide by police in  
20 this instance than the previous hypothetical.

21 Q. And that would be with his hands visible to the police  
22 officers?

23 A. Yes, and my reason is that he -- the officers have -- know  
24 that he has had a weapon; that the weapon is operational and  
25 functional, as I keep saying. And so him moving downwards, you

Keram - Cross

1 know, places the likelihood that he can reach for that weapon,  
2 it becomes a higher possibility. So just only knowing, you  
3 know, up to that and not anything that happens afterwards, I  
4 would say that my anxiety level or my concern that this may be  
5 moving towards a suicide by police is heightened at that point.

6 Q. Did you have opinion as to whether Officer Paine shot  
7 Mr. Boyd because he thought Mr. Boyd wanted to commit suicide  
8 by cop?

9 MR. WIENER: Objection, beyond the scope of direct.

10 THE COURT: And I think this witness's expertise and  
11 disclosure of opinions. Sustained.

12 Q. You took into consideration various information trying to  
13 figure out what the intent of Mr. Boyd was, correct?

14 A. Yes.

15 Q. I want you to assume this hypothetical. Assume that  
16 Mr. Boyd was a double amputee, had prosthetics. And the police  
17 were telling him to put his hands up and get down on the  
18 ground, essentially at the same time. Do you have these facts  
19 in mind?

20 A. Uh-huh.

21 Q. And Mr. Boyd told them, he can't, or words to that effect,  
22 he has prosthetic legs. And Mr. Boyd starts going down to a  
23 seated position, and I also want you to assume that because of  
24 his disability, he needs to have some assistance to get down.  
25 Do you have those facts in mind?

Keram - Cross

1 A. Yes.

2 Q. Do you think that maybe in this case Mr. Boyd's getting to  
3 the seated position in the way I described may have had  
4 something to do with his disability?

5 MR. WIENER: Objection. It lacks foundation. And  
6 it's beyond her expertise in terms of whether he could or could  
7 not get down.

8 THE COURT: I'll sustain. You'll have to first lay a  
9 foundation that the witness in some fashion either used that  
10 particular fact -- in other words, if you want her to assume  
11 that he was getting in a particular position and he had  
12 difficulty, does that affect her opinion in some way.

13 BY MR. GALIPO:

14 Q. Did you take into consideration his disability in forming  
15 your opinions in this case?

16 MR. WIENER: Objection, vague.

17 THE COURT: Overruled.

18 A. Yes.

19 Q. In what way?

20 A. In several ways. One obviously was the impact on the event  
21 on his life's trajectory.

22 Q. Let me rephrase because I'm afraid I'm going to have a real  
23 long answer. I'm afraid the question was too broad.

24 In terms of his movements around the car, did you take  
25 into consideration his disability in that regard, right before

Keram - Cross

1 the shots?

2 A. Yes.

3 Q. In what way?

4 A. I thought about -- I have a number of amputees, double  
5 amputees in my practice, World War II vets and Vietnam vets,  
6 and Korea, and I thought about their ability, they had similar  
7 individuals, bilateral below-the-knee amputations, and I  
8 thought about their limitations in terms of their activities or  
9 actions when they're wearing bilateral prostheses.

10 Q. A few more hypotheticals and I'll try to conclude.

11 Everything that you --

12 A. I'm really not being complete in my answer. You know, my  
13 patients are able to get up and down from a similar height and  
14 some get down to play with their kid, that type of thing. So I  
15 guess I had that in mind when I found out about his actions.

16 Q. By the way, did you think that Mr. Boyd was telling the  
17 police he can't get down, he has prosthetic legs, that's  
18 consistent with him wanting the police to shoot him?

19 MR. WIENER: Objection, it's argumentative.

20 THE COURT: Overruled.

21 A. Again, just based on that alone, you can't say one way or  
22 the other. You really need to look at more information to form  
23 an opinion about that.

24 Q. Do you think Mr. Boyd telling the police, "I don't have  
25 anything, I'm unarmed," is consistent with him telling the

Keram - Cross

1 police he wants them to shoot him?

2 A. Well, again, he may be playing a cat-and-mouse game with  
3 the police. May want the police to feel that the event is  
4 ending successfully. May want the police to feel that he's  
5 unarmed. You know, people can say that when they're not and so  
6 forth. I can't tell. I can't form an opinion just based on  
7 that. I'd need to know more information.

8 Q. In your opinion, hypothetically, everything being given on  
9 the case in terms of hypotheticals today, if Mr. Boyd in  
10 standing in the open driver's door area of the car, turned to  
11 his left and his left hand went towards the side of the car,  
12 you think that in this case is consistent with him wanting to  
13 be killed by the police?

14 MR. WIENER: Vague as to side of the car.

15 THE COURT: You were doing this in a standing  
16 position, did you mean it to be standing?

17 MR. GALIPO: Yes.

18 THE COURT: Okay. Overruled.

19 A. I'm sorry, and the question is, is that consistent with a  
20 suicide by police?

21 Q. With him wanting to be killed by the police at that moment.

22 A. Again, you can't say just based on that alone, that it's  
23 not inconsistent because he's starting an action. But you  
24 can't make a determination with medical certainty based on that  
25 alone.



Keram - Cross

1 Q. Regarding the potential prison sentence, you would agree  
2 there's a lot of people that don't want to go back to prison?

3 A. Correct.

4 Q. They don't commit suicide, all of them, do they?

5 A. Correct.

6 Q. And whether or not there was a plea bargain on the table,  
7 you don't know, correct?

8 A. I don't know that, no.

9 Q. Whether or not he could have pled to a misdemeanor, you  
10 don't know?

11 A. I have no knowledge about that.

12 Q. And the case had been pending for some time, hadn't it?

13 A. The case had been pending about an average amount of time  
14 for the cases that I've been involved in with similar types of  
15 charges. So when you say "some time," that's kind of a  
16 relative....

17 Q. A year, a year and a half, something like that.

18 A. A year, yeah.

19 Q. So you think he picked this particular day after a year to  
20 want to commit suicide?

21 A. Well, as I said, I think the timing is significant, you  
22 know, the "why now" is significant because of the potential for  
23 the prison term. I think there is another "why now," which has  
24 to do with the phenomenon, the anniversary phenomenon. That we  
25 see that people that have had a significant life event, a very

Keram - Cross

1 traumatic life event, have difficulty usually around the  
2 anniversary of that life event.

3           So he lost his legs in April of 1993, and the event,  
4 this event took place in May, May 4th. So within a few weeks  
5 of the anniversary of that. You know, at the same time, also,  
6 the robbery -- I'm sorry, the charges that he was facing on  
7 this -- on the pending charge took place right around the  
8 anniversary, within days. And people as they approach their  
9 anniversary for the few weeks before of the traumatic event and  
10 then they pass it, they may become suicidal, and my Vietnam  
11 vets, what are they, 30, 40 years out, have this happen. So  
12 that's another potential question for the "why now" of it.

13 Q. He would have had 11 anniversaries from the 1993 event  
14 before May 2004?

15 A. Absolutely. And the reason why that is significant is that  
16 he has not accomplished an upward trajectory in his life. His  
17 life is following a downward trajectory with arrests and, you  
18 know, the potential for a long prison sentence. The time of it  
19 doesn't matter because, as I said, you know, I see this in my  
20 Vietnam vets. They become more suicidal after the Tet  
21 offensive. I will tell you that February each year is a very  
22 difficult time for my Vietnam vets who were in any of the Tet  
23 offensive, not just the '68 Tet.

24 Q. You don't have any information that he had any arrests, do  
25 you, from 1997 up until 2003?

Keram - Cross

1 A. No, I don't. I don't believe I do, no.

2 Q. You mentioned about --

3 A. I think you meant to say 2003 --

4 Q. You mentioned about staging the scene or wanting to wait 5  
5 or 15 minutes to a lot of people out there?

6 A. I'm sorry, say that again.

7 Q. Did you say something about wanting to wait 5 or 15 minutes  
8 for a lot of officers to arrive?

9 A. No, I didn't say that.

10 Q. Let me ask you this: If your testimony is that you think a  
11 person would do something, make a movement like reaching for a  
12 weapon, for example, to incite the police to shoot, is that  
13 what your thinking is in this case?

14 A. Yes.

15 Q. Assuming that the person did that with all kinds of  
16 witnesses present, how would that make for a good civil  
17 litigation case?

18 MR. WIENER: Argumentative.

19 THE COURT: No, I'll overrule.

20 Q. In other words, if the person wanted to make a good civil  
21 litigation case and they reach underneath the seat of the car  
22 with all these people present, how would that make a good case  
23 for them in your mind?

24 A. Well, first of all, I think the primary reason -- this is  
25 one reason among many for Mr. Boyd to have engaged in a suicide

Keram - Cross

1 by police. You know, the other reasons have to do with not  
2 getting his life together, with facing a long prison sentence,  
3 with medical illness, so this is one factor among many.

4 Q. I'm talking about that factor right now.

5 A. Uh-huh. You know you're asking me to comment on, you know,  
6 whether or not he has a good understanding of how to create a  
7 good civil case.

8 Q. Well, I guess in part, because one of the main reasons that  
9 I wrote down that you said is so that the family could prevail  
10 in future civil litigation.

11 A. No, I did not say that that was one of the main reasons. I  
12 said that was one of the possible reasons. And it's certainly  
13 one of the reasons that I believe is present in this case. But  
14 it's one among several.

15 Q. I thought the two main reasons you gave was hostility or  
16 animosity towards the police; and wanting the family to prevail  
17 in civil litigation. Isn't that what your testimony was?

18 A. I believe what I testified to and what I intended to  
19 testify is that the reasons that Mr. Boyd committed a suicide  
20 by police had to do with him not -- with him facing a long  
21 prison sentence, not getting his life together, animosity  
22 toward the police resulting in him wanting to inflict  
23 psychological damage, and the potential for his family to  
24 prevail in civil litigation.

25 I think the reason you may have the impression the

Keram - Cross

1 prevailing in civil litigation is a major factor is that  
2 Mr. Wiener asked me several questions that I explained by that  
3 particular focus. But there are many reasons, as I just  
4 outlined.

5 Q. In fairness to you, you did mention the other reasons.

6 Let me just ask you this last question, and I probably  
7 went over my 15 minutes, but to keep this moving along for all  
8 of us: Regarding the psychological damage, wanting to give a  
9 police officer psychological damage.

10 A. Uh-huh.

11 Q. In this case, your understanding is only one officer shot,  
12 correct?

13 A. One officer shot --

14 MR. WIENER: Objection, lacks foundation.

15 MR. GALIPO: I'll withdraw it.

16 Q. Is it your testimony that a person would want to look like  
17 they're reaching for a weapon by putting their hand underneath  
18 the seat of the car so they could be shot and killed for the  
19 purpose of having the officer that shoots him have some  
20 psychological harm?

21 A. That's one of the reasons, yes.

22 Q. And they would trade their life in to do that?

23 MR. WIENER: Objection, argumentative.

24 THE COURT: Well, I'll overrule. The witness is  
25 capable of answering without just a yes or no.

Keram - Cross

1 A. The trading of the life has to do, I think, with the prison  
2 sentence and the inability to get the life together in a  
3 positive upward direction. The other factors are all secondary  
4 to the sort of things that he can accomplish in the primary  
5 act.

6 So, for example, my patient, a different patient than  
7 I've discussed so far, who wanted to commit a suicide by police  
8 for the simple reasons of wanting to die, when I asked him why  
9 he picked the police, he said, you know -- and I'm just going  
10 to use the expletives, he said, Fuck the police, I hate the  
11 police. I want to fuck up as many of them as I can on my way  
12 out. So it's a secondary goal.

13 Q. Dr. Keram, there's a lot of people that have ongoing  
14 criminal charges, correct?

15 A. Absolutely.

16 Q. And there's a lot of people that face potential long  
17 sentences, correct?

18 A. Yes.

19 Q. They don't go killing themselves every day, do they?

20 A. No. What we're looking at here is somebody who has a lot  
21 of different factors all together. Not just one factor.

22 Q. I understand. In your opinion, how did, based on your  
23 analysis of Mr. Boyd's mental state, how did he know that he  
24 was going to be shot and killed as opposed to shot and injured?

25 MR. WIENER: Lacks foundation, your Honor, she never

Keram - Cross

1 said that.

2 THE COURT: Pardon me?

3 MR. WIENER: She never said that he knew he would be  
4 injured as opposed to killed.

5 THE COURT: Overruled.

6 Q. How did he know he wouldn't just be shot in the leg, for  
7 example, and have further physical disability the rest of his  
8 life?

9 A. People who engage in suicides by cop or suicides by police  
10 don't know exactly what they need to do in order to be -- to  
11 accomplish that goal. And so if they're not successful by  
12 doing A, they'll do B, B presenting a higher level of threat;  
13 if they're not successful with B, they'll do C. So you know, I  
14 mean, this sounds bizarre, but once you're more familiar with  
15 the literature, you can accept it.

16 There are instances in which people have been exactly  
17 as you said, wounded and continued to escalate, firing upon  
18 police officers, for example, their level of threat, until they  
19 are shot and killed or, to their knowledge, incapacitated, and  
20 they don't know if they're going to die.

21 Q. In this case, do you have an opinion that Mr. Boyd knew  
22 whether or not he was going to be shot and injured or shot and  
23 killed?

24 A. My opinion is that he intended to prevent -- present  
25 lethal -- threat of lethal force until he was shot and killed

Keram - Cross

1 or incapacitated.

2 Q. And that's based on assuming facts as to what happened at  
3 the scene, in part?

4 A. No, I mean, I think he had that intent before he got to the  
5 scene. I think he had the intent to provoke the use of lethal  
6 force by law enforcement before he got to the scene.

7 Q. You would agree, Doctor, you weren't at the scene, correct?

8 A. Absolutely.

9 Q. And would you agree that what happened actually at the  
10 scene would be important to know in terms of what he wanted?

11 THE COURT: Are you asking her whether she had to be  
12 there in order to form an opinion?

13 MR. GALIPO: No.

14 Q. I'm asking you --

15 THE COURT: Because she's been given a hypothetical of  
16 things that happened at the scene.

17 Q. What I am asking you, is it your testimony that it doesn't  
18 matter what happened at the scene, he wanted to be killed and  
19 that's the end of the story?

20 A. I didn't --

21 MR. WIENER: Objection, argumentative, your Honor.

22 THE COURT: It is argumentative. I'll overrule, and  
23 you can explain.

24 A. You know, I'm sorry, but I'm not -- I don't understand  
25 where you're going. I don't understand what you're asking me.



Keram - Cross

1 Q. Do the facts in terms of the hypotheticals you've been  
2 given, are they important to you as to what happened at the  
3 scene in giving your final opinions?

4 A. Are you asking me does -- did the hypotheticals that I was  
5 given about what happened at the scene lead me to certain  
6 opinions?

7 Q. Doctor, you understand that the hypotheticals are just  
8 assuming certain facts are true as to what happened at the  
9 scene. Correct?

10 A. Yes.

11 Q. Different hypotheticals might have different facts?

12 A. Different opinions, yes, yes, yes.

13 Q. Might assume different facts?

14 A. Yes.

15 Q. I'm wondering, in your opinion, that this was a suicide by  
16 cop --

17 A. Uh-huh.

18 Q. -- is it important to you what his actual actions were in  
19 terms of what he said, and what he did, and whether he was  
20 reaching under the seat and things of that nature?

21 A. Yes, those are all things that I would consider.

22 MR. GALIPO: Thank you. That's all I have.

23 THE COURT: Okay. How much redirect do you think  
24 you've got?

25 MR. WIENER: Five minutes, your Honor.

Keram - Cross

1 THE COURT: If it's going to be brief, I think we  
2 should conclude the witness. So I'll let you go on with your  
3 redirect at this time.

4 MR. WIENER: Okay.

5 REDIRECT EXAMINATION

6 BY MR. WIENER:

7 Q. Good afternoon. Just a few follow-up questions.

8 First of all, in referring to a percentage from the  
9 Hudson study, I want to clear up something that I think may  
10 have been a discrepancy on direct and cross. In terms of the  
11 percentage of people who present a gun pointing at the police  
12 officers during a suicide by cop and didn't put the gun away  
13 after being told to do so, what percentage was that?

14 A. I may have misstated that. The percentage of people who  
15 had a gun -- I confused that, I'm sorry -- is 16.5 percent. I  
16 said the wrong number on cross-examination. I think I said 54  
17 percent. So the vast majority of people who do present a gun  
18 and are then told, you know, to drop it and then they drop it.  
19 I'm sorry.

20 Q. You don't need to apologize. I'm just clarifying it.

21 A. Yeah.

22 Q. So Mr., I believe, Galipo asked you some questions about  
23 law enforcement journals and implied that this is some sort of  
24 cop-created phenomenon. You testified before that there are  
25 medical journals that are published, 6 to 12 peer-reviewed

1 studies on this?

2 A. Yes.

3 Q. Do police officers write medical journal articles or  
4 physicians?

5 A. It's primarily physicians. Some of the studies may have a  
6 law enforcement officer as a coauthor.

7 Q. But those are peer-reviewed medical articles?

8 A. Absolutely.

9 Q. They're not law enforcement journals?

10 A. No.

11 Q. Regarding the potential sentences and whether it would be a  
12 lot of years or pled out to something lesser, would you defer  
13 to Tony Brass in terms of his opinions about the likelihood of  
14 that happening?

15 A. Yes. That's not within my area of expertise.

16 Q. And so you would defer to Tony Brass in terms of the  
17 likelihood of pleading out a serious gun offense?

18 A. Absolutely.

19 Q. And in terms of the criminal exposure Mr. Boyd was facing,  
20 we talked about the pending charge as of going into the day of  
21 the incident, did you also consider the possibility of being  
22 charged with the attempted murder of a police officer before he  
23 got to Larch Way based on that conduct?

24 A. Yes, that was mentioned in Mr. Brass's report.

25 Q. That's not a misdemeanor?

Keram - Redirect

1 A. No.

2 MR. WIENER: Thank you. Nothing further.

3 THE COURT: Any recross, Mr. Galipo?

4 RECROSS EXAMINATION

5 BY MR. GALIPO:

6 Q. The only other question I have, is it your opinion that the  
7 drugs were affecting him mentally at the time this happened or  
8 not?

9 A. I don't think you can say with absolute certainty because  
10 you don't know his past history of exposure with absolute  
11 certainty. It's my opinion that if the drugs were affecting  
12 him at the time, that the way in which they affected him was to  
13 disinhibit the behavior. Behavior that he might not have gone  
14 for, so to speak, might not have engaged in if he weren't  
15 intoxicated.

16 MR. GALIPO: Thank you. That's all I have.

17 THE COURT: Anything further from the defendants?

18 MR. WIENER: No, your Honor.

19 THE COURT: Thank you very much, Dr. Keram. You're  
20 excused at this time.

21 THE WITNESS: Thank you.

22 (The witness exits the stand)

23 THE COURT: We'll need to take a break, ladies and  
24 gentlemen. How much witnesses do you have to call?

25 MR. WIENER: One.

1 THE COURT: Is it possible our schedule may be moving  
2 along at a faster pace than I anticipated when I addressed you  
3 this morning -- but I don't want to be too optimistic about  
4 that. Why don't we give the jurors 20 minutes now as a break,  
5 and I want to take just a moment, after Miss Lucero lets them  
6 out, to speak to you about the time elements.

7 (The jury exited the courtroom)

8 (In open court; jury not present)

9 THE COURT: I had asked Miss Lucero to check and see  
10 where that missing 40 minutes may have come from. When we had  
11 the discussion on Monday by way of the defendants' objection to  
12 the plaintiffs' questioning concerning 184 and 185, I did  
13 indicate that I felt that that time should be attributed to the  
14 defendants, and not to the plaintiffs, since it was  
15 precipitated by an error on the defendants' side either through  
16 paralegal or some other staff member.

17 Miss Lucero, have you determined whether or not that  
18 40 minutes that you have that Ms. Bernstein did not have in  
19 terms of cross-examination on that date or direct examination  
20 on that date, is attributable to that break in those times?

21 DEPUTY CLERK: It would fit that time, yeah.

22 THE COURT: I don't know that my direction to Miss  
23 Lucero was actually stated on the record or just stated soot  
24 voce, but that was what I was thinking about earlier when I  
25 indicated there was one objection that I said was to be placed

1 on essentially the defendants' tab, and I think that actually  
2 we told the defendants that, but I don't know if the court  
3 reporter is able to find that in her notes.

4 If that is the case, as I say, Miss Lucero never makes  
5 a mistake, then you have 40 minutes less than Miss Bernstein  
6 calculated.

7 MR. WIENER: And your Honor, we collectively, the  
8 three of us, have no recollection of the Court indicating that  
9 that would be taken from our time, and we would object to that  
10 being taken from our time. Just like Mr. Galipo when we had to  
11 leave early several days because he ran out of witnesses, he  
12 was not tagged with that time; so we would object to the Court  
13 making that ruling, if that ends up being the ruling.

14 THE COURT: I don't consider it a goose-and-gander  
15 situation, and that's never really good argument anyway. But  
16 to the extent that we can check the record to see, if you feel  
17 you were misled in some way, I will consider that. I'm  
18 satisfied Miss Lucero is correct and Miss Bernstein's  
19 calculations are different because either of her  
20 misunderstanding as to what was being counted or otherwise.

21 But that there's been no error on Miss Lucero's part.  
22 So the only question is whether in this instance it would be  
23 inequitable for you to be charged with that time if you were  
24 operating under a misunderstanding as to whether you would be  
25 in some fashion involved in examination without keeping that in

1 mind.

2 I'll ask the court reporter to assist us at her  
3 earliest convenience in that regard and I'll speak to her the  
4 moment we take a break.

5 MR. WIENER: One comment.

6 MR. LOEBS: One comment?

7 THE COURT: It has to be very brief.

8 MR. LOEBS: Mr. Galipo knew about that discrepancy  
9 well in advance of him offering that in evidence to the  
10 witness. He knew about it well in advance. He could have  
11 bought it up.

12 THE COURT: He may have known about it. But the  
13 problem is that it was created by the defendants who misled the  
14 Court, Mr. Galipo, a witness, and everyone else. Not  
15 intentionally perhaps, but nonetheless, that is what the  
16 genesis of that entire segment of lost time was. If -- so as I  
17 say, I think it's legitimate to charge the defendants. It was  
18 my intent to do so, and if they were not so notified, and in  
19 some way relied on the absence of such notification, I'll  
20 consider that as an equitable matter.

21 As I said, I'll see the court reporter briefly off the  
22 record.

23 (Recess)

24 (In open court; jury not present)

25 THE COURT: Very briefly for the record before the

1 jurors come in, the court reporter cannot find anything on the  
2 record in which I informed the defendants that the time was  
3 going to be attributed to them. With that understanding and  
4 their statement that they were relying on the full amount of  
5 time left without that subtraction, so to speak, it will not  
6 count toward their time.

7 So Miss Lucero will take the 34 minutes or whatever  
8 the difference was off.

9 MR. WIENER: Thank you, your Honor.

10 THE COURT: I hope you don't use it.

11 (The jury entered the courtroom)

12 (In open court; jury present)

13 THE COURT: Ladies and gentlemen, we have another  
14 witness.

15 Mr. Loeb, you'll be calling that witness?

16 MR. LOEB: Yes, they're in the hall.

17 THE COURT: Okay. Sir, if you'll come up to the stand  
18 to be sworn before you're seated.

19 (Witness sworn)

20 DEPUTY CLERK: Please be seated.

21 State your full name for the record, and spell your  
22 last name, please.

23 THE WITNESS: My name is Don Stuart, S-t-u-a-r-t,  
24 Cameron, C-a-m-e-r-o-n.

25 ///



1 DON STUART CAMERON,

2 called as a witness by the Defendants,

3 having been duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. LOEBS:

6 Q. Good afternoon, Mr. Cameron.

7 A. Good afternoon.

8 Q. Sir, what is your occupation?

9 A. I own and operate Cameron Consulting, and Cameron  
10 Consulting is a physical skills and classroom teaching firm  
11 that provides instruction to policing agencies, college  
12 districts, security firms, private corporations and the United  
13 States military. And when I say "physical skills," what I'm  
14 talking about is what an enforcement person does physically  
15 towards their job. I teach police offices firearms, I teach  
16 the use of impact weapons for layperson terms, nightsticks, I  
17 teach them physical methods of arrest, how to control people,  
18 how to take people down, how to handcuff people, how to search  
19 people. And I do the classroom backup for those areas because  
20 basically they have to know when they can use force, and then  
21 we show them how to use the force. They have to know the right  
22 circumstances to use the force.

23 I'm also an adjunct faculty member at several criminal  
24 justice training centers including Contra Costa County  
25 Sheriff's Department, Sacramento training center, and the Napa

Cameron - Direct

1 Valley Criminal Justice Training Center.

2 Q. Mr. Cameron, before we get into the details, I just want to  
3 ask you just very generally do you also do consulting work with  
4 respect to your understanding of police practices and  
5 procedures?

6 A. Yes, sir, I do.

7 Q. And did you do work in this case in that regard?

8 A. Yes, sir, I did.

9 Q. And without getting into any of your opinions at this time,  
10 did you formulate some opinions in this case regarding police  
11 practices and procedures?

12 A. Yes, I did.

13 Q. Okay. I asked you what your current occupation is, and you  
14 said you work for Cameron Consulting?

15 A. That's correct, I do.

16 Q. And that's you?

17 A. That's me.

18 Q. You were talking about what "physical skills" mean when you  
19 were talking about the teaching that you do. What is that?

20 A. Physical skills basically are the physical aspects of law  
21 enforcement. So like I mentioned, firearms, use of impact  
22 weapons, physical methods of arrest, vehicle stops, vehicle  
23 extractions, building searches, SWAT team tactics.

24 Q. Before we get into the actual teaching that you do, let's  
25 talk a few moments about your background that gave you the

1 ability to be able to impart to others your knowledge about  
2 tactics, laws of arrest, physical skills, all right?

3 A. All right.

4 Q. What initially gave you some expertise and understanding  
5 about what police officers do or should do?

6 A. I was a police officer for just under 16 years with the  
7 Berkeley Police Department.

8 Q. How many years?

9 A. Just under 16.

10 Q. And as a police officer what did you do as a police  
11 officer, just in general?

12 A. I was a patrol officer; I was a field training officer; I  
13 was a patrol sergeant; I was acting launch commander; I was in  
14 charge of training as a sergeant.

15 I was a background investigator. I worked  
16 plainclothes narcotics. I worked crimes against persons.

17 Q. Were you out in the field making arrests?

18 A. Yes, sir, I was.

19 Q. You were doing that about 16 years?

20 A. About 16 years.

21 Q. What's the next work that you had or if you could expand on  
22 that work that gave you some expertise or understanding of  
23 police procedures and practices?

24 A. Well, I have a background in the marshal arts for the last  
25 56 years, and when I went into law enforcement, they didn't

Cameron - Direct

1 give us a lot of physical training. They assumed that we knew  
2 how to arrest people. And, in fact, a lot of the officers  
3 didn't. So based on my martial arts background, I started  
4 training officers, first Berkeley and then in the Bay Area, and  
5 it kind of ballooned into a business where I trained officers.  
6 And at about that same time POST, the Peace Officers Standards  
7 and Training was formed, and they were looking for subjects to  
8 teach to the officers, and a natural for me was physical  
9 methods of arrest.

10 Q. We're talking about POST. What is POST?

11 A. POST is actually an acronym for the California Commission  
12 on Peace Officers Standards and Training, and it's a regulatory  
13 commission through the State of California that mandates police  
14 training, regulates police training, certifies police training,  
15 certifies police instructors, and then they're the overseer of  
16 the POST basic course, instructor level courses and the service  
17 courses.

18 Q. And you said you had some involvement with working with  
19 POST?

20 A. Yes, sir, I did.

21 Q. Could you explain what that is?

22 A. I'm one of the subject matter experts on the areas of laws  
23 of arrest, use of force, physical methods of arrest, crowd  
24 control. And what that means is the way the basic course is  
25 broken down, it's broken down into 43 Learning Domains.

1 Q. Learning domains.

2 A. And a Learning Domain basically is a functional area of law  
3 enforcement that the Commission has picked out and they say for  
4 an officer to do their job, they have to be able to do this.  
5 So they have report writing. They have courtroom testimony.  
6 They have dealing with diversities. They have laws of arrest,  
7 use of force, firearms. They go through the whole gamut. If  
8 it's a classroom portion, it's paper and pencil. If it's a  
9 physical area that I teach, they either have to demonstrate  
10 proficiency on the range, they have to demonstrate proficiency  
11 with their weapon, they have to demonstrate proficiency with  
12 handcuff and takedowns, that type of thing.

13 Q. Laws of arrest and how to make felony stops, that sort of  
14 thing?

15 A. Yes, sir.

16 Q. Is that part of the area --

17 A. That's one of the areas I teach.

18 Q. And you were talking a moment before how you first got  
19 involved working with POST. Can you explain that?

20 A. Like I mentioned, POST was a brand-new thing that had just  
21 been commissioned by the State legislature and basically in its  
22 infant state, they were trying to say exactly what is POST  
23 going to do. And the idea obviously was always that it was  
24 going to regulate police training so that all of the training  
25 in the State of California would be standardized.

1           So if I went to San Diego Police Department at an  
2 academy, it had the same format, basic format, as if I went to  
3 the Eureka Police Department. They set a minimum number of  
4 hours for each subject matter and every academy has to teach  
5 the minimum number, but the academies can opt to teach more  
6 than that, but they have to have the minimum and they have to  
7 have the minimum of testing.

8 Q. So POST relates to the standards that the individual police  
9 academies in different cities in California have to meet in  
10 order to train their police officers; is that correct?

11 A. That's correct.

12 Q. And you first said you first became involved with POST when  
13 it was first created?

14 A. Yes, I did.

15 Q. What was your involvement in that respect; how did you  
16 become involved?

17 A. At that time, I had been teaching police officers the  
18 physical skills of impact weapons.

19 Q. I'm sorry?

20 A. Physical skills and impact weapons.

21 Q. Impact?

22 A. Nightsticks.

23 Q. Okay.

24 A. And because I was teaching that, POST came to me and some  
25 of the other instructors in the state that did that and said,

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1 could I look at some criteria and put together some criteria of  
2 what the officers at a minimum need to do to make arrests. So  
3 basically we sat down and started writing standards. And I  
4 have been writing standards ever since.

5 Q. You say "writing standards." What do you mean, what are  
6 you referring to?

7 A. It's the Learning Domains. In other words, as a group of  
8 subject matter experts, and usually it runs from about 10 to 20  
9 maximum, and POST will bring us up to a location, they'll say,  
10 you know, this is what we're looking at. Okay, at the  
11 beginning, they weren't looking at anything really, and we were  
12 putting it together. Now they look at the things and they say,  
13 you know, there's new case law, we need to fit that in.  
14 There's new standards, we need to fit that in. There's new  
15 equipment, we need to fit that in.

16 So the subject matter experts will examine the old  
17 Learning Domain. If it stands on its own, then we're okay. If  
18 it doesn't stand on its own, then we change it. But then  
19 obviously from us it goes to proofread; from proofread it goes  
20 to legal; and from legal it comes back to us to make sure that  
21 they proofread it correctly; and then, finally, it goes to the  
22 Commission.

23 Q. So whether you're talking about the POST Learning Domains,  
24 these would be essentially the instructional materials that are  
25 necessary for certifying police officers and police academies

1 throughout California?

2 A. Yes, sir.

3 Q. And you said you had some involvement in helping create  
4 those?

5 A. Yes, sir.

6 Q. Could you explain to the jury what involvement you had in  
7 creating the Learning Domains?

8 A. Each domain, like I mentioned, has a subject matter expert,  
9 and they're not the same subject matters experts because you  
10 can't be an expert on everything. So the areas I deal with are  
11 physical methods of arrest, laws of arrest, crowd control, use  
12 of force, once in a while I'll be on firearms, but usually they  
13 meet at the same time the physical methods of arrest meet, and  
14 I like the physical methods of arrest a little bit better.

15 And then other subject matter experts will be doing,  
16 for example, report writing. Or they'll do cultural  
17 diversities. Or they'll be doing chemical a little. So  
18 they'll be doing other things for their committees. The  
19 committees don't meet all the time. If there's something new,  
20 we meet right away. But we usually meet every two years, and  
21 that's sometimes a one-day session, and we'll just look at the  
22 standard and say, that standard's still appropriate. We'll  
23 look at it and go, Whew, this one's out of date, spend three  
24 days to two weeks rewriting it.

25 Q. And when you work on rewriting the POST standards with



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1 respect to use of force, that would then change what would be  
2 the standard of certification for academy throughout  
3 California?

4 A. That's correct, provided it's passed by legal. If we see  
5 something that's illegal, we're in trouble. But if it goes to  
6 legal and it comes back to us, then it goes to the Commission.

7 Q. You mentioned use of force. Does that include use of  
8 lethal force as well?

9 A. Yes, it does.

10 Q. Are you saying you had a hand in writing the domain for --  
11 as it relates to use of force?

12 A. Yes.

13 Q. What role did you have relating to those Learning Domains  
14 that relates to use of lethal force?

15 A. Basically the same. We look at --

16 Q. When you say "we," I'm talking about you, Mr. Cameron.

17 A. Well --

18 Q. What role did you have?

19 A. It's the subject matter. Experts. In other words, we  
20 break down into various committees. And we say these things  
21 need to be approved, these things need to be changed, and then  
22 we'll write them down and -- I'll write them down. Usually  
23 have somebody writes better than I do or has a computer that's  
24 more proficient than I am and will put those things together.  
25 So we literally will take it from the basic use of force, the

1 basic concept of use of force, up to and including the use of  
2 deadly force.

3 Q. Did you yourself work on writing the Learning Domains that  
4 are currently in effect for the use of lethal force throughout  
5 the State of California?

6 A. Yes, I did.

7 Q. We've heard some mention of different Learning Domain  
8 numbers. In fact, Learning Domain Number 20 came up earlier in  
9 testimony. What is that domain?

10 A. That's the use of force.

11 Q. And when you're talking about your work in writing or  
12 helping to write that, are you talking about that?

13 A. Yes, I am.

14 Q. What in your background and experience gave you the ability  
15 to write the Learning Domain that's used for training all  
16 police officers in California?

17 A. Basically I guess it's my training and experience and my  
18 reputation as an instructor. I've been training police  
19 officers now for the last 38 years. So I've trained a lot of  
20 police officers. Not only in California, I've trained some in  
21 the other states. But I've trained probably thirty to 40,000  
22 police officers. So I have a reputation as a trainer. I'm  
23 interested in training. I want to make sure that the training  
24 is correct, that the officers do the right thing, that the  
25 agencies train them correctly. So with that representation,

1 POST chose me as one of the subject matter experts.

2 Q. In addition to the Learning Domains, are there also some  
3 type of examination that relates to certification for POST  
4 certification?

5 A. Right. The LD tests, they're called.

6 Q. LD for Learning Domain?

7 A. Learning Domain. And like I mentioned, there's a paper and  
8 pencil test that's through a scantron, and then my areas,  
9 because they're all physical skills, with the exception of a  
10 use of physical force that's a classroom session and it's a mat  
11 session. Like throwing mats.

12 Q. Hands-on?

13 A. Hands-on. Then we test physically and we have a criteria  
14 that's verbal commands, awareness, balance, technique, use of  
15 force, escalation, deescalation. And those are our criteria.

16 Q. When we're talking about physical force, do you also do  
17 work related to weapons?

18 A. Yes.

19 Q. Firearms?

20 A. Yes, sir.

21 Q. What expertise or experience do you have in working with  
22 firearms and training police officers and people through POST  
23 in the use of firearms?

24 A. I'm a Federal Bureau of Investigation certified firearms  
25 instructor. I have been since 1974. I train firearms

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1 instructors, survival shooting instructors, basic academy  
2 cadets.

3 Q. We talked a bit about Learning Domain Number 20. Have you  
4 also worked on other domains for certification for all police  
5 officers in California?

6 A. Yes, I have.

7 Q. Can you explain what those are?

8 A. I've written LD-33, which is physical methods of arrest.  
9 LD-24, which is crowd control. We talked about LD-20, use of  
10 force. I've worked on the less lethal device committee, but  
11 less lethal doesn't have its own Learning Domain. And less  
12 lethal obviously means use of electric stunning devices or  
13 what's referred to as the Taser. Use of impact munitions. Use  
14 of supplementary weaponry that's considered less lethal.

15 Q. Perhaps we mentioned this briefly before, but in addition  
16 to working on writing these Learning Domains, when they  
17 initially came out, you said you also do work to make sure  
18 they're updated and current in terms of the -- what's necessary  
19 to train officers today?

20 A. Yes, that's correct. They will call a committee back  
21 together, like I said, if they think there's something -- when  
22 I say "they," I'm talking about the Commission -- if they think  
23 there's something new, brand-new case law that's going to  
24 affect the use of force, they'll call us together or they'll  
25 call us together right then. Depending on the domain, we'll

1 get together every year, year and a half. We never go more  
2 than two years.

3 Q. Now, with respect to the teaching that you've done in terms  
4 of use of force including lethal force, can you explain to the  
5 jury some of the police organizations or peace officers  
6 organizations to which you have actually talked?

7 A. I basically teach in three venues. I teach academy  
8 students. I teach in-service officers, which means officers  
9 that are already hired. And I teach instructor level people  
10 that are going to go back and either teach at the academies or  
11 in their own agencies.

12 I've taught at the Alameda County Sheriff's  
13 Department, San Francisco Police Department, Orange County  
14 Sheriff's Department; Los Angeles County Sheriff's Department;  
15 Berkeley Police Department. Pretty much all the agencies here  
16 in the Bay Area. And then the central area, down Monterey,  
17 Pacific Grove, that area. Then down south.

18 Q. And that includes teaching in basic academy, officers that  
19 are in service and teaching the instructors themselves?

20 A. Yes, and in-service officers.

21 Q. And in-service officers. For how long have you been  
22 engaged in this type of teaching with respect to use of force  
23 and in particular lethal force?

24 A. I have been involved in use of force training for 38 years.  
25 I have been involved in the use of deadly force training since

1 1974.

2 Q. Now, with respect to your knowledge of any changes or  
3 developments with respect to what the appropriate training  
4 would be for the use of force or lethal force, what do you do,  
5 if anything, to stay current as to your knowledge and  
6 understanding as to -- just so that you can impart it to the  
7 people you teach, in terms of use of force, particularly the  
8 use of lethal force?

9 A. Basically we have a network of instructors that do what I  
10 do. Some only teach lethal force. In other words, firearms.  
11 Others teach physical methods of arrest. Most teach physical  
12 methods of arrest and use of impact weapons. A lot do all  
13 three. Some are SWAT instructors.

14 I belong to the ASLE, A-S-L-E, the American Society  
15 for Law Enforcement Trainers. I belong to the International  
16 Association of Chiefs of Police. And through those  
17 associations they send us out training bulletins, model  
18 policies, that type of thing to keep us abreast of what's  
19 happening within the industry.

20 And I also do research on my own.

21 Q. Do the training that you have and the teaching that you've  
22 done, does that also relate to how an officer makes an arrest?

23 A. Oh, yes.

24 Q. Maybe you could describe in general the broad area in which  
25 it relates to the work that you've done and the teaching in the

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1 areas that would encompass?

2 A. Well, like I mentioned, you don't really do an officer a  
3 service if, Number 1, you tell them when they can use force but  
4 you don't show them how to use force. And the other end of  
5 that is if you show them how to use force but you don't tell  
6 them when they can use the force, you don't do them a service.  
7 So you have to combine the two. You say these are the various  
8 levels you can use under these circumstances.

9 Then when you leave the classroom, you take them to  
10 whatever the training facility is, a firing range, a matted  
11 area, that area that has striking dummies, and you say, based  
12 on this scenario, give them scenarios, high degree of  
13 reasonable suspicion of probable cause, based on these we put  
14 out scenarios to them, what level of force can you use and show  
15 me how you're going to use that level of force.

16 So we take them actually through the scenarios and we  
17 grade them on it.

18 Q. And when you say "we," that's something you do personally.

19 A. That's something I do personally. It's just -- I'm usually  
20 teaching with other instructors. I'm usually the lead  
21 instructor. I always include that as we.

22 Q. Okay. How about police pursuits; do you have any  
23 understanding about how police pursuits should be done and any  
24 expertise in that area?

25 A. I understand police pursuits, but I don't teach vehicle or

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1 emergency vehicle operation.

2 Q. How about in terms of commands that would be issued by  
3 officers when they're making arrests? Is that something that  
4 you have experience in with respect to your teaching?

5 A. Yes, we have the cadets do that constantly, and in-service  
6 people, and obviously instructors because they're going to  
7 teach.

8 Q. In terms of, for example, how you use the radio when  
9 there's an emergency, is that something that you're familiar  
10 with in your experience as -- in the teaching you've described?

11 A. Yes, sir.

12 Q. Now, I want to take a few minutes and talk about the use of  
13 lethal force just in general as a concept before we talk about  
14 some of the specifics in this case. And I'll -- when I get to  
15 the specifics in this case, I'll do that through a  
16 hypothetical?

17 A. All right.

18 Q. Now, first, do you have an understanding based on your work  
19 and your years of experience as to when it's appropriate for an  
20 officer as you teach officers to use lethal force?

21 A. Yes, sir.

22 Q. Okay. And just in general, what are the circumstances in  
23 which you would teach officers that it's appropriate to use  
24 lethal force?

25 A. Well, obviously depending on the level, it's all the same.



1 I teach a first-party threat of imminent death or serious  
2 bodily injury.

3 Q. You say you teach a "first-party threat"?

4 A. Yes.

5 Q. What is that?

6 A. First-party threat means a threat to the officer.

7 Q. So you said "a first-party threat." That would be a threat  
8 to the officer?

9 A. Right. Then we -- I teach a second-party threat, which is  
10 again a -- an imminent threat of serious bodily injury to  
11 others, not just the others but ourselves.

12 Then I teach a third-party threat.

13 Q. Let's talk about the first-party threat with respect to the  
14 officer's use of force. Can you explain what you teach and  
15 instruct through POST and individually how that relates to when  
16 an officer can use force?

17 A. Okay, I teach what I refer to as the light officer  
18 standard. But it's actually an objective, reasonable officer's  
19 standard. That simply means given a specific set of  
20 circumstances, what an officer of light training and experience  
21 use the same level of force, make the same decision, use the  
22 same level of force.

23 Q. You say you call that an objective standard?

24 A. Objective reasonable standard.

25 Q. What do you mean by that?

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1 A. That simply means that, again, an officer has to make an  
2 objective, not a subjective; in other words, it's based on the  
3 information they had at the time they made that decision. It's  
4 not based on anything later on which we refer to as 20/20  
5 hindsight.

6 Q. How does that relate to the teaching you do 20/20 hindsight  
7 in evaluating an officer's use of force at the moment it's  
8 used?

9 A. Well, officers are oftentimes put in tense,  
10 rapidly-evolving situations. They require instantaneous  
11 decision-making. So they can't take time to analyze what's  
12 going on; they have to react based on what they've been trained  
13 to do.

14 Consequently, if you tell the officers they're not  
15 going to judge you on what you found out later on, they're  
16 going to judge you on the information you had at the time, and  
17 then an officer of similar experience and training were placed  
18 in the same situation, would they choose the same course or a  
19 similar choice of action.

20 Q. And that's something that's important to the teaching that  
21 you do with police officers?

22 A. I think it is, yes.

23 Q. And why is that?

24 A. Because an officer had to say they're going to be  
25 second-guessed every time they use any level of force, whether

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1 they use their hand, impacted weapons, whatever they use, then  
2 they're not going to use force, particularly deadly force. And  
3 the result is that either themselves or another person is going  
4 to get injured or killed.

5 Q. Why is that?

6 A. Because if I wait too long to use force, then I'm playing  
7 catch up. And you know a lot of times I can't catch up.

8 Q. And is that -- when you say a lot of times you can't catch  
9 up, we'll talk about that in a minute. Is that part of the  
10 reason that officers go through the training they do to try to  
11 be able to evaluate those emergency decisions?

12 A. Oh, yes.

13 Q. Can you explain that?

14 A. Certainly. In other words, particularly at the academy  
15 level, but you've got to reiterate it with the in-service  
16 people, they don't know anything about force, really, for the  
17 most part. They don't know what their authorization to use  
18 force is. They don't know what type of force they can use.  
19 They don't know how to use the force. So it's important for  
20 them to understand the concept of force, but it's also  
21 important for them to understand that if they don't use force  
22 at this point, basically things are going to end up, in most  
23 cases, get worse for them, for the citizenry.

24 Q. You said for them and the citizenry?

25 A. Uh-huh.

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1 Q. Before going on to talking about the third-party and the  
2 second-party threat and the third-party threat, you said  
3 something about how it's difficult to catch up if they don't  
4 make a decision when they need to make it.

5 A. That's correct.

6 Q. What do you mean by that?

7 A. It depends on what level of force they're using. If, for  
8 example, I were doing a probable cause arrest, and to make an  
9 arrest I put my hand on you, that's a given fact. So if I put  
10 my hand on you and I say, You're under arrest, and you start to  
11 tighten up on me and I don't do anything to stop you from  
12 tightening it, then it starts to escalate. Then you start to  
13 pull away. I don't do anything. So now you can -- you start  
14 trotting away. And I don't do anything.

15           Whereas, in the onset, if I put my hand on you and you  
16 tighten up and I put you in a control hold and say, Relax, and  
17 I exert a little pain influence over you, and I say, I'll stop  
18 hurting you if you relax and calm down. Then I'm not catching  
19 up. I'm initiating the arrest I originally had the authority  
20 to do.

21 Q. When you're training officers with respect to force,  
22 strictly lethal force, do you involve yourself at all in the  
23 reaction time issues?

24 A. Yes, I do.

25 Q. Do you have any expertise as to that?

1 A. Yes, sir, I do.

2 Q. Can you tell us how, if at all -- first, what is reaction  
3 time?

4 A. Reaction time is the time -- it deals with brain lag.  
5 Reaction time, all of those buzz words. But basically it means  
6 how long it takes you to perceive a threat and react to the  
7 threat. Okay. A lot of the studies I won't say are flawed,  
8 but, for example, in a shooting situation, if I had the  
9 officers on the range and I had what's called a Pro Timer, and  
10 a Pro Timer is simply a stopwatch, when I set the button it  
11 sets off the buzzing signal and it's sound-sensitive. So when  
12 the officer shoots their gun, it shuts off the stopwatch and  
13 you know how long it took the officer to react.

14 But it's a little bit flawed because in those  
15 scenarios, if I have a Pro Timer in my hand and the officer has  
16 a gun in their hand, then that they're going to shoot the gun.  
17 So they've already anticipated they're going to shoot the gun.  
18 In a live situation they never know what, when they're going to  
19 have to shoot the gun. So they tend to be slower in a live  
20 situation than they do in a training environment.

21 Q. When you were talking about timing with a stopwatch, where  
22 they say, Okay, we're going to check your reaction time, have  
23 your gun out and ready, and we say "go" and have you shoot?

24 A. We actually go on a buzzer.

25 Q. And they try to shoot as close as they can to the buzzer.

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1 And you say that's not very realistic in terms of an officer in  
2 the field in terms of issues related to reaction time?

3 A. It's not. I mean, it gives them a general, general idea of  
4 how long it takes somebody to react, but it takes them longer  
5 on the street to react because on the street they never know  
6 when they're going to shoot.

7 Q. They don't have a buzzer saying --

8 A. There's no buzzer.

9 Q. Is it because essentially their mental process is figuring  
10 out what to do?

11 A. Exactly. In that case, with the buzzer, they don't have to  
12 perceive anything. They don't have to look at anything, they  
13 don't have to have any feedback to the brain sending the  
14 impulse out to shoot. All they have to know is when it buzzes,  
15 I pull the trigger.

16 Q. How does this relate to the training you do with police  
17 officers, the reaction time issue, why does that matter?

18 A. It's important for them to understand reaction time because  
19 they're always going to be playing catch up. In other words, I  
20 may have my gun out. And you don't have a gun out. But all of  
21 a sudden -- you being the police officer. I may have my gun  
22 out. The individual I'm dealing with may not have a gun out,  
23 or they may have their hand behind their back. Or they may  
24 have their back to me with their hands out of my view, and  
25 suddenly the person has a gun, turns around very quickly. If I

1 wait until I see the gun, the best I can ever do is I can tie  
2 him. In other words, we can shoot at the same time. And in a  
3 gun fight, a tie is no good.

4 Q. So you actually do specific training with officers as to  
5 whether they believe someone might be doing something  
6 associated with trying to get a weapon as to whether they  
7 should wait to see that weapon before they fire?

8 A. Oh, yeah. We do what's called simunition training. And  
9 simunition training is mark the bullets that go in the gun,  
10 except we change the barrel for obviously safety reasons, and  
11 then the officers wear protective suits, both the officer and  
12 the individual playing the suspect or the suspects, and we put  
13 them through various scenarios, a lot based on Lewinski  
14 studies, a lot based on factor studies, a lot based on our own  
15 studies. And we'll have the suspect with their back to the  
16 officer, the officer giving the suspect demands, and all of a  
17 sudden the suspect will turn, and if the officer waits to see  
18 the gun, they'll either lose or the best they can do every time  
19 is tie.

20 Q. Which is a loss?

21 A. A tie is a loss.

22 Q. And you mentioned the Lewinski studies. Does that relate  
23 to your opinions with respect to reaction time?

24 A. Yeah. Basically what Lewinski did is take suspects in all  
25 positions and postured shooting over their shoulder, left hand,

1 right hand, running suspects, shooting with their right hand,  
2 to see how long it took the suspect to shoot and the officer to  
3 react. And probably 99 percent of the studies the officer  
4 always lost. In other words, if the officer waited until the  
5 suspect drew their gun back, the officer would lose.

6 Q. What percent?

7 A. About 99 percent of the time. If the officer reacted when  
8 the suspect started to turn, then the officer could win.

9 Q. And that's part of the training you do with police  
10 officers?

11 A. Oh, yes.

12 Q. So, for example, let's say that an individual has maybe  
13 just committed a bank robbery with a weapon and they're  
14 standing out with their hands up and the officer is attempting  
15 to facilitate arrest. Standing up, seeing there's no gun in  
16 their hand. And let's say they make a move to inside their  
17 jacket. How would reaction relate to the way you would train  
18 an officer in terms of what they should do to respond to that?

19 A. It would be based on the reaction time that they already  
20 would have been trained in. And then we say, Are those  
21 movements consistent with a movement that can produce a gun?  
22 And if those movements are consistent with a movement that can  
23 produce a gun, then you have to make the shooting decision. I  
24 can't tell you as the instructor to shoot every time. But I  
25 can give you information to make an intelligent decision.



1 Q. Now, when you're training police officers, do you talk with  
2 them about the different situations that might develop and how  
3 they might have a belief, whether someone is armed or is not  
4 armed, and how that might relate to how much of a chance, for  
5 lack of a better term, they're going to give the individual in  
6 terms of any movement they make?

7 A. That's correct.

8 Q. So let's say just, hypothetically, we have a situation  
9 where an individual has been involved in a high-speed pursuit  
10 and the pursuit started because the individual was threatening  
11 a woman with a gun. And during that pursuit, that individual  
12 fired twice at the pursuing police officers with his weapon.  
13 And then at some point towards the end of the pursuit, that  
14 individual was outside of the vehicle and his hands could be  
15 seen.

16 In terms of that factual scenario and the training you  
17 might do with police officers, what will you train them in  
18 terms of how they should be reacting to any movement by that  
19 individual from his hands in a raised position?

20 MR. GALIPO: I'm going to object as vague as to the  
21 type of movement.

22 THE COURT: Overruled.

23 A. Again, it depends on what the officer perceives. In other  
24 words, if I told you to do something, for example, I say,  
25 again, "Get down on the ground," and you keep showing me the

1 hands and you start tipping forward and slowly go down on the  
2 ground, that's fine, because you're doing what I asked you to  
3 do.

4 On the other hand, if I tell you to go down on the  
5 ground and you have the hands up in front of you and those  
6 hands go anywhere else, down here, down here, toward the  
7 waistband, towards the back (indicating), then again, from my  
8 perspective as an instructor, I say, Remember the lag time  
9 studies we talked about? Are his movements consistent with the  
10 movements that could produce a gun? And if a gun is produced  
11 and you wait to see it, what's the best you can do? And  
12 hopefully they remember their training and say, The best I can  
13 do is die.

14 Q. And, again, with your hypothetical, say, an individual has  
15 their hands up, they're being told to get to the ground,  
16 they're being told to keep their hands up, and instead, they  
17 had move either one or both hands to their waistband?

18 A. That's a shooting decision. Again. And again, I talk  
19 about the lag time and tell the officers that they better not  
20 wait to see a gun.

21 Q. Let's say same situation, individual moves his hands down  
22 to the waistband and starts moving them upward?

23 A. Same thing.

24 Q. When you say "same thing," what you mean by that?

25 A. At that point an officer should make a shooting decision

Cameron - Direct

1 because again the shooting decision is made based on the  
2 information the officer had at the time. All right. In that  
3 scenario that you presented, with the hypothetical you  
4 presented, the officer doesn't know where the gun is, and if  
5 they wait to see where the gun is, again, the best they can do  
6 is a tie.

7 Q. Now, when you said that the officers need to rely on the  
8 information that they have at hand, that they know, did you say  
9 something similar to that?

10 A. Yes, I did.

11 Q. With respect to what you teach officers as to what they can  
12 rely on, does it relate to just things that they personally  
13 observed?

14 A. No, oh, no, not at all.

15 Q. Can you explain that?

16 A. Certainly, the whole concept of police work, and that's the  
17 reason police originally got radios is that they communicate  
18 with one another. If you couldn't rely on what another officer  
19 said or you couldn't rely on what your dispatcher told you over  
20 the air, then police officers would rarely arrest anyone  
21 because they'd have to on view everything.

22 Q. On view?

23 A. On view. In other words, you'd have to see the crime.

24 There'd be a lot of injured police officers and a lot of  
25 injured civilians if you had to rely on the fact that I have to

Cameron - Direct

1 see the knife or see the gun, see you attacking the person  
2 before I can take any action. That's the whole concept of why  
3 police have sophisticated communications so that they can  
4 communicate with one another.

5 Q. You're saying that -- let's say in a police pursuit if one  
6 officer hears over the radio that the individual that's being  
7 pursued has fired at police officers in the pursuit, whether  
8 that officer then later encounters that individual, you're  
9 saying they can have that in their memory bank as far as what  
10 that individual's done?

11 A. Certainly, that's all part of the information that they've  
12 achieved or got.

13 Q. Now, going back to what you were talking about in terms of  
14 first-party, second-party and third-party threat, can you  
15 explain to me what you would teach to officers as to what the  
16 standard would be when they could use lethal force when they  
17 themselves as a first party feel that they're threatened?

18 A. It's based on the information they have at the time. Would  
19 an objectively reasonable officer consider that the person  
20 posed a threat or imminent threat of death or serious bodily  
21 injury to the officer? So they have to make the fair  
22 preposition -- or proposition.

23 Q. And with respect to second-party threat that would be the  
24 threat to someone else?

25 A. It's the same standard, right.

1 Q. But it has to do with somebody else.

2 A. Right, somebody else.

3 Q. And as to the third-party threat, I understand that's a  
4 little bit different than two concepts you just talked about?

5 A. It is.

6 Q. What do you mean by the "third-party threat"?

7 A. Basically two prongs. The first prong is the fleeing felon  
8 rule. In other words, for the fleeing felon rule to be  
9 invoked, the person obviously has to be a dangerous felon, and  
10 they have to be fleeing from the officer.

11 Q. Have to be a dangerous felon and they have to be fleeing?

12 A. From the officer. And they can be fleeing on foot or in a  
13 vehicle. It makes no difference. And the same standard  
14 applies. If the officer, based on the information that he or  
15 she has, would consider that the person posed an imminent  
16 threat of death or serious bodily injury to others because of  
17 their getting away, then the officer again can use deadly  
18 force.

19 Q. With respect to the fleeing felon rule as far as you teach  
20 police officers, do they have to have the same sort of belief  
21 as to the imminent threat of the individual or does it relate  
22 to the individual's escape?

23 A. It's based on the severity of the crime and the  
24 circumstances that the officer originally responded to. It's  
25 based on a threat to the officer or others. It's based on why

Cameron - Direct

1 the person is trying to flee or evade arrest. It's based on  
2 time considerings, that may change, the circumstance that the  
3 officer's facing at the time. And obviously it's based on if  
4 the officer has other alternatives.

5 Q. Let me see if I can give you an example and see if this  
6 works with respect to the fleeing felon rule if we can  
7 illustrate it. It's an officer, hears over the radio or  
8 observes in person a bank robbery has occurred and someone has  
9 been injured or killed in the course of the bank robbery, and  
10 the suspect is seen leaving the bank by the police officer.  
11 And the suspect is then, is armed but maybe he takes the gun,  
12 throws it away in the car, then gets in the car and begins to  
13 drive off.

14 Would the fleeing felon rule apply in any way to that  
15 scenario?

16 A. Yes, sir.

17 Q. How so?

18 A. Because -- that's why it's not in any of the courts, I  
19 don't think, but we say project, what the officer's doing is  
20 projecting, the person who committed that type of crime  
21 involved in the possible injury to somebody, and they're now  
22 trying to flee the scene, there's nothing that's going to stop  
23 them from continuing to commit crime. And that's the  
24 projection.

25 Q. In that situation, would it be appropriate for an officer

1 to use lethal force to stop that individual from escaping?

2 A. Yes, it would.

3 Q. Even if the individual wasn't pointing a gun at anyone but  
4 was getting in a car and driving off?

5 A. That's correct.

6 Q. Okay. Now, you said there was another aspect to the  
7 third-party threat. I think we talked about the fleeing felon  
8 rule. What other aspect are you referring to?

9 A. Hot pursuit.

10 Q. What do you mean by that?

11 A. With a fleeing felon you don't have to have a vehicle. You  
12 can be on foot. Hot pursuit you have to have a vehicle. And  
13 it's when officers attempt to initiate a stop and someone  
14 initiates a hot pursuit trying to get away from the officer and  
15 they don't yield to the officer's red lights and siren. And  
16 the officer can say, If I don't terminate this pursuit at this  
17 point, it may result in injury or death to citizens, my  
18 standards.

19 Q. You're saying hot pursuit is the same thing as high-speed  
20 pursuit?

21 A. It is a high-speed pursuit. I mean, I've seen low-speed  
22 pursuits, but it's high speed.

23 Q. You're saying that an officer as you've trained them in  
24 throughout California through POST, can use lethal force to  
25 stop someone that's engaged in a high-speed pursuit and failing

1 to yield to the police?

2 MR. GALIPO: Vague as to point in time as to when he  
3 trained on a hot pursuit. Before or after the date of this  
4 incident.

5 THE COURT: No, I'll overrule.

6 You may answer.

7 A. Okay. I trained the officers in that concept. I have  
8 always trained in the fleeing felon concept.

9 Q. We're talking about the hot pursuit concept, you identified  
10 that as being somewhat different?

11 A. That's correct.

12 Q. With respect to the hot pursuit concept in terms of how  
13 you've trained officers, how does that relate to the situation  
14 I've just described where there is a hot pursuit, the  
15 individual is failing to yield, and the officer believes that  
16 if he doesn't use lethal force to stop that pursuit, it may  
17 endanger the lives of others. How do you train officers with  
18 respect to that situation?

19 A. They actually -- that's why I listed them together. They  
20 actually overlap. Because technically the person's using a  
21 vehicle as a potential deadly weapon. So you do have a fleeing  
22 felon.

23 Q. Okay, I see. So in that circumstance that I just  
24 described, with someone in a vehicle in a hot pursuit, failing  
25 to yield to police officers, and the officer reasonably



Cameron - Direct

1 believes that the vehicle if it continues in the pursuit may  
2 kill innocent bystanders, you train officers that it would be  
3 appropriate to use lethal force to stop that pursuit?

4 A. I do, yes, sir.

5 Q. Again, that would be regardless of whether the individual  
6 had a gun or was using a gun?

7 A. That's correct.

8 Q. And would that also be regardless of whether that  
9 individual had committed any type of violent crime before the  
10 pursuit started?

11 A. That's correct.

12 Q. One quick question before I get into hypotheticals related  
13 to the facts of this case: You have experience with firearms.

14 A. Do I have experience in firearms?

15 Q. Yes, sir.

16 A. I'm a firearms instructor.

17 Q. Do you have experience in rapid fire shooting?

18 A. Yes, sir.

19 Q. In your experience do the bullets tend to rise in rapid  
20 firing situation?

21 A. Yes, they do, because of the recoil.

22 Q. Now, I'm going to ask you some questions related to --  
23 hypothetical questions related to this incident.

24 MR. GALIPO: I apologize for a late objection, but  
25 I'll object as vague as to the bullets rising, what that means.

Cameron - Direct

1 Q. When you're talking about the recoil and the shots rising,  
2 what are you referring to?

3 A. When you fire, particularly with a semi-automatic pistol,  
4 even if you have a really good, solid base, the gun tends to  
5 come back and move slightly up. Okay. The more stable my base  
6 is, the less rise I have. But as I shoot, if I start low,  
7 they're going to start going higher with each shot.

8 Q. When you say going up higher, that would be the  
9 trajectories of the bullets?

10 A. That's correct.

11 Q. I want to ask you some questions related to this --  
12 hypothetical questions. I want you to assume that in  
13 San Francisco there was a situation in which a call went out on  
14 the police radio that a woman had been threatened with a gun.  
15 And an officer's hearing this call, attempted to respond where  
16 he thought the individual might be. That the call described  
17 the individual threatened a woman with a gun as a black male  
18 wearing a white do-rag driving a black Blazer. Do you have  
19 that in mind?

20 A. Sure.

21 Q. Further assume that an officer spotted a vehicle of that  
22 description and pulled in behind the vehicle, and before the  
23 officer put his lights and sirens on, the vehicle took off in  
24 San Francisco.

25 A. Okay.

Cameron - Direct

1 Q. And then the officer then put out a description and started  
2 a pursuit of the vehicle. Do you have that in mind?

3 A. Yes, sir, I do.

4 Q. And that the pursuit went through different parts of  
5 San Francisco, and at some point other officers joined in the  
6 pursuit as the pursuing officer was calling out the directions  
7 of the pursuit. Do you have that in mind?

8 A. Yes, sir, I do.

9 THE COURT: If you're going to put a board on the  
10 easel in that area, put it back a bit so Mr. Galipo will have a  
11 decent line of sight.

12 Q. Using Exhibit T-5, have you seen this before, Mr. Cameron?

13 A. Yes, sir, I have.

14 Q. Okay. Just to help facilitate the hypothetical question  
15 and understanding the nature of the pursuit, I'm going to use  
16 this diagram of the pursuit in San Francisco.

17 A. Okay.

18 Q. Do you have that in mind?

19 A. I have that in mind.

20 Q. So when the officer first picks up the vehicle that matches  
21 the description that was given out over the radio, it starts  
22 about in this location on 8th Street. Do you have that in  
23 mind?

24 A. Yes, sir.

25 Q. Are you familiar with San Francisco?

Cameron - Direct

1 A. I was born and raised in San Francisco.

2 Q. And the pursuit goes through Haight Street, goes through  
3 Divisadero, and at that point a second vehicle joins the  
4 pursuit.

5 A. I believe so, yes.

6 Q. And then the vehicle continues in a high-speed chase to the  
7 area of Broderick Street.

8 A. Yes, sir.

9 Q. All right. And then I want you to assume at that location  
10 that the pursuing officer is shot at by the driver of the  
11 vehicle. That the driver of the vehicle with his right hand  
12 puts his gun out of the window and fires at the pursuing  
13 vehicle, and the officer announces over the radio, "Shots  
14 fired, shots fired, he shot at me." Do you have that in mind?

15 A. Yes, sir I do.

16 Q. And that officer continues in the pursuit as there's a  
17 vehicle behind him, going to Grove Street and then turning up  
18 to Scott Street, at which time the driver of the vehicle fires  
19 a second round at the pursuing vehicles. Do you have that in  
20 mind?

21 A. Yes, sir.

22 Q. I want to stop at this point and ask you a question about  
23 Code 33. Do you understand what that is?

24 A. I certainly do.

25 Q. What is that?

Cameron - Direct

1 A. Code 33 basically means emergency traffic, clear the air.

2 Q. What's the significance of that in a pursuit such as I've  
3 described in the hypothetical?

4 A. Well, you have obviously shots fired, you have a critical  
5 situation. What you don't want to do is have other officers  
6 come on the air and say, I'm at this location, I'm at that  
7 location, because they tend to step on the officer that's  
8 initiating the pursuit.

9 And shots have been fired, you want to have him to  
10 have command of the air so he can give out more information; in  
11 other words, where the vehicle's going, whether he's been hit  
12 or not, if a citizen has been hit or injured. So he has to  
13 have the air and the other officers have to stay off the air.  
14 And that's one of the radio codes that's pretty much universal  
15 throughout California, is a Code 33. Guard your air. Don't  
16 say anything.

17 Q. Is that important for safety reasons for the officers?

18 A. It's more for safety reasons for everyone.

19 Q. And if someone else got on the air with something that  
20 wasn't as important as the lead officer's pursuing directions,  
21 might they lose the vehicle?

22 A. Oh, yeah.

23 Q. Might important information not be imparted to the other  
24 officers?

25 A. That's correct.

Cameron - Direct

1 Q. I want you to further assume that the pursuit continues  
2 from Scott up to Turk Street?

3 A. All right.

4 Q. And at this point, we have another group of police  
5 officers, and generally they're stopped at Pierce heading north  
6 on Pierce. Do you have that in mind?

7 A. I do.

8 Q. This would be -- these would be officers in an unmarked  
9 unit.

10 A. Okay.

11 Q. And that the officers in the unmarked unit have heard the  
12 entire radio broadcast up to that point.

13 A. All right.

14 Q. And they're attempting to respond to assist the pursuing  
15 officers.

16 A. All right.

17 Q. And the officer -- let's say the driver of this vehicle  
18 sees the pursuit coming his way the wrong way down Turk Street  
19 at speeds around 50, 60 miles an hour?

20 A. I understand that. Okay.

21 Q. Are you familiar with Turk Street?

22 A. Yes, I am.

23 Q. When I say the "wrong way," it would be a one-way street  
24 and would be going the wrong way down both directions.

25 A. I understand.

Cameron - Direct

1 Q. And this individual's already fired twice at pursuing  
2 police officers.

3 A. Yes, sir.

4 Q. And I want you to further assume that the driver of the  
5 vehicle at this intersection of Pierce and Turk takes his gun  
6 out and aims one shot at the oncoming vehicle and fires one  
7 shot not at the vehicle but at the driver in order to terminate  
8 that pursuit.

9 A. Okay.

10 Q. Do you have that in mind?

11 A. I do.

12 Q. With that factual scenario, Mr. Cameron, based on your  
13 training and experience, how would that relate to the training  
14 that you provide for police officers as to whether that would  
15 be an appropriate time to use lethal force to stop that -- the  
16 driver of that vehicle?

17 A. I think based on all the information the officers received  
18 at that point -- that the individual threatened the female with  
19 a gun, that they're in a high-speed pursuit with him, that he's  
20 fired back at a police officer on two occasions, that he's  
21 obviously very recklessly driving the wrong way down, in this  
22 case, Turk Street -- that constitutes a variety of things:  
23 First-party threat, second-party threat, fleeing felon. So  
24 it's all the categories, and the officer's perfectly  
25 appropriate in attempting to terminate the pursuit by

1 terminating the driver.

2 Q. So in your training the police officer, if you were  
3 reviewing that factual circumstance, what would you say as to  
4 whether it was appropriate or not for the officer to fire a  
5 round at the driver in an the attempt to stop the pursuit?

6 A. Perfectly appropriate.

7 Q. You mentioned the fleeing felon rule. Would that apply?

8 A. Yes, sir, it would.

9 Q. How about the high-speed pursuit rule?

10 A. Yes, sir.

11 Q. That would be applied?

12 A. Yes, sir, it would.

13 Q. In your mind, how close of a call is it whether the officer  
14 would be justified in using lethal force?

15 MR. GALIPO: I'll object as to use of the term "how  
16 close of a call."

17 THE COURT: Overruled. I think it's not a close call  
18 at all. I think it's very appropriate at that point.

19 Q. Now, I'm going to ask you a few questions about that  
20 hypothetical and a few different aspects of that. Do you have  
21 that in mind?

22 A. I do.

23 Q. Let's say, hypothetically, that the officer who fired this  
24 shot never actually saw the individual shooting but just heard  
25 over the radio that the driver of the SUV was shooting at



1 pursuing police officers. Would that make any difference in  
2 your mind?

3 A. Not at all. Officer's operating on that information and  
4 belief.

5 Q. Let's say, hypothetically, that the driver of the police  
6 vehicle at the time he saw the pursuing vehicle was not 100  
7 percent sure that there wasn't a passenger, let's say, hiding  
8 in the back seat that he couldn't see.

9 A. Really makes no difference.

10 Q. Why not?

11 A. Because you've got a fleeing felon. You got the individual  
12 that attempted to murder a police officer. You've got somebody  
13 that's totally disregarding the rules of the road and the  
14 citizens that are on the road.

15 Q. Let's say that we have a situation where officers, before  
16 they could use lethal force as the situation we just described,  
17 had known absolutely, 100 percent, that there were no people  
18 hiding in the back seat. How would that affect the officer's  
19 ability to act as a police officer?

20 MR. GALIPO: I'll object as mischaracterizing the  
21 witness's testimony as phrased.

22 THE COURT: I'll sustain.

23 Q. How would it affect the police officer's ability to do his  
24 job that before he could fire his shot in that situation the  
25 officer had to be 100 percent sure there was no one hiding in

1 the back seat?

2 A. They'd never be able to do their job.

3 Q. Why not?

4 A. Because they'd always be second-guessing themselves, and  
5 saying, Gee, I wonder if somebody's in there and I shouldn't  
6 shoot; and, consequently, you let a fleeing felon get away.

7 Q. And I wanted to add a hypothetical that never at any point  
8 during the radio call or the chase did anyone ever say there  
9 was another individual in the vehicle, that never at any point  
10 did the officer who fired the shot see more than one individual  
11 in the vehicle, other than the driver; and that when the  
12 officer announced, "Shots fired, shots fired, he shot at me,"  
13 assuming those facts, if an officer is in a position that we  
14 described, seeing the vehicle going, say, 50, 60 miles an hour  
15 the wrong way down Turk with vehicles in pursuit, in your mind,  
16 would it be reasonable for that officer to think that there is  
17 one occupant in the vehicle?

18 A. I think it would be very reasonable.

19 Q. With the hypothetical I just gave you, if the officer  
20 did -- if his shot was successful and he did strike the driver  
21 and incapacitate him -- first of all, let me ask you this:  
22 When an officer is using lethal force, they are trained to stop  
23 the threat or shoot to kill?

24 A. They're trained to stop the threat.

25 Q. What's the difference?

Cameron - Direct

1 A. If I trained you to kill, it would be a harder thing to do,  
2 Number 1, but there'd be no reason to do that. We train  
3 officers to stop the immediate threat. Once the threat stops,  
4 there is no reason to continue to use deadly force.

5 Q. So let's say in this situation that the officer's, his shot  
6 is successful and he does strike the driver of the vehicle, in  
7 your analysis is there some risk that the vehicle might go out  
8 of control at that point?

9 A. There could be.

10 Q. How does that relate to your opinion as to whether or not  
11 the use of lethal force against the driver would be appropriate  
12 in that circumstance?

13 A. I still think it would be appropriate. If you can stop the  
14 vehicle from doing the things it was doing, shooting at police  
15 officers, perhaps hitting civilians on the street, or running  
16 into, say, a family of six in a Volkswagen coming the right way  
17 down Turk Street, and you weigh that against the fact that I  
18 incapacitate the driver, the driver crashes into a pole,  
19 crashes into a wall, I think one outweighs the other.

20 Q. In the factual scenario I just gave you, this driver who's  
21 just been fleeing through San Francisco, going the wrong way on  
22 occasion, at this point driving the wrong way 50 to 60 miles  
23 down Turk, would you say that individual at that point was  
24 driving under control?

25 A. Not at all.

Cameron - Direct

1 Q. Let say, hypothetically, in the same situation, through  
2 good fortune or whatever, through the time of the pursuit, even  
3 though the individual almost hit a bicyclist, went on the left  
4 of a MUNI bus, crossed over the dividing line at Divisadero,  
5 was going the wrong way down Scott Street, fired twice at the  
6 police officers and is going the wrong way down Turk at about  
7 60 miles an hour, but at that point, no one had been injured,  
8 would it be reasonable for the officer at Pierce and Turk to  
9 assume that no one would be injured by the contact with this  
10 driver?

11 A. No, not at all.

12 Q. You talked before about the importance of officers being  
13 able to make decisions when it's necessary to use lethal force.

14 A. Yes, sir.

15 Q. In terms of the decision that this officer would have made  
16 at this time in the hypothetical, how would that relate to your  
17 opinion about the ability of officers who are well trained to  
18 make split-second decisions?

19 A. Well, based on the information that he had at the time,  
20 he's made a split-second decision that he's going to take a  
21 shot at the driver and hopefully incapacitate the driver.

22 Q. Now you specified a shot at the driver as opposed to a shot  
23 at a vehicle. Why did you do that?

24 A. Well, Number 1, there's no handgun around me that can  
25 penetrate the engine block of a -- to stop a car, and there's

Cameron - Direct

1 no handgun around me that can take a tire out of a car.

2 Q. I watch in movies all the time where they shoot the tires  
3 out.

4 A. That doesn't work in reality.

5 Q. Okay. So when you're training officers, do you train them  
6 in this sort of situation that they shoot to disable the  
7 vehicle?

8 A. No, they shoot to disable the driver.

9 Q. I would assume further in this hypothetical I just gave you  
10 that when the officer took the shot, and it would have been  
11 after the two previous shots had been fired by the driver of  
12 the SUV, that the officer made the decision not to go on the  
13 air and announce to the pursuing officers or anyone else that  
14 was listening that he had actually fired the shot at Pierce and  
15 Turk. How would that fit in with your understanding of how you  
16 train police officers?

17 A. That fits in with the Code 33. I mean, if he had hit the  
18 driver and the vehicle was coming to a stop, then certainly he  
19 would go out on the air and say, I shot the driver, the vehicle  
20 is coming to a stop, or, I shot the driver and the vehicle  
21 crashed. But they're still under the Code 33. He didn't stop  
22 the driver and the vehicle still continued the reckless driving  
23 it was participating in.

24 Q. Say, hypothetically, that in the officer's mind he was  
25 thinking that his shot, which would have been the third shot in

Cameron - Direct

1 this pursuit, was not important enough information to go out on  
2 the air and possibly interrupt the transmission by the pursuing  
3 officer, would you believe that would be an appropriate  
4 decision for that officer to make?

5 A. I think that was a good decision.

6 Q. I want you to further assume with respect to this  
7 hypothetical that after this officer took this shot at Pierce  
8 and Turk, he in his vehicle followed the pursuit down Turk  
9 Street, until the pursuit got to Webster Street and then  
10 Buchanan, and then the officer with his partner continued down  
11 Eddy Street and then got on Laguna, took a right on Laguna, and  
12 then eventually at some point this officer stopped his vehicle  
13 right near Larch, the beginning of Larch. Do you have that in  
14 mind?

15 A. I do.

16 Q. Hypothetically, assume that from the time the officer fired  
17 the shot, that he did not take his gun and pause and put it in  
18 his side holster, undoing his seat belt before, engaged in the  
19 pursuit; rather, keeping his weapon out so he could be involved  
20 actively in the pursuit. Do you have that in mind?

21 A. I do.

22 Q. How would that fit within the training that you would  
23 provide for a police officer with respect to appropriate use of  
24 firearms?

25 A. I think you're dealing with a major crime in progress. And

Cameron - Direct

1 you don't want to delay by trying to holster your weapon at  
2 that point. I mean, a semi-automatic pistol is a safe pistol,  
3 in that mode.

4 Q. So in your training, would you at all fault the officer for  
5 keeping his weapon out until -- all the way until he arrives at  
6 the Larch Way entrance that I described?

7 A. No, not at all.

8 Q. Now I'm going to ask you to assume some additional facts  
9 with respect to a hypothetical, and that is that when the  
10 pursuit continues and the individual driving the SUV failed to  
11 yield in any way when the officer fired at the driver, and the  
12 pursuit continued down Turk, again still at high rates of  
13 speed, left on Webster, right on Eddy, then into Buchanan  
14 Street. Do you have that in mind?

15 A. I do.

16 Q. And for the rest of my discussion about the pursuit, I want  
17 you to assume that at the time of this incident, from when the  
18 vehicle turns onto Buchanan until later when the ambulance is  
19 called after the last series of shots are fired, that 96  
20 seconds transpires.

21 A. Okay.

22 Q. The rest of what I am talking about happens within a span  
23 of 96 seconds.

24 A. All right.

25 Q. Mr. Cameron, I'm going to show what's been admitted in

Cameron - Direct

1 evidence as V5-01, and this is just a top view of Larch Way so  
2 you can have the hypothetical facts in mind.

3 A. Okay.

4 Q. And you understand the left side, this would be Buchanan?

5 A. Yes.

6 Q. And on the right-hand side, my right now, this would be  
7 Laguna?

8 A. Yes, sir.

9 Q. And this would be an overhead view of the small street of  
10 Larch?

11 A. Yes.

12 Q. Do you have that in mind?

13 A. I do.

14 Q. Let's assume, as we were describing before, that the  
15 officers' in the unmarked unit, the driver goes to this area  
16 I'm pointing to on the right-hand side of Laguna and brings his  
17 vehicle to a stop. The officers' vehicle.

18 A. All right.

19 Q. And at that point, the officers wait and see if the pursuit  
20 comes through Laguna, so he pauses at that point so as not to  
21 be running -- hit by the pursuit. Do you have that in mind?

22 A. I do.

23 Q. And at that point, the passenger officer exits the vehicle.

24 A. All right.

25 Q. And now for the next few hypotheticals I'm going to focus



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1 on the passenger officer. Do you have that in mind?

2 A. I do.

3 Q. We'll call him Officer O'Malley.

4 A. Okay.

5 Q. So, hypothetically, then Officer O'Malley gets out of the  
6 vehicle and he runs up the south side of Larch.

7 A. Okay.

8 Q. I guess I said south pointing to north. The north side of  
9 Larch.

10 A. Okay.

11 Q. Looking at Exhibit F-9, I want you to further assume that  
12 Officer O'Malley, who runs up the north side of Larch, gets to  
13 the location that I have that's indicated here that has a tree  
14 in it behind this red car. Do you have that in mind?

15 A. I do.

16 Q. And at that location, the -- Officer O'Malley sees the  
17 driver in the SUV.

18 A. All right.

19 Q. And the driver in the SUV is not even in this location or  
20 this location (indicating), but is stopped somewhere behind the  
21 vehicle here, sort of the shadow vehicle in F-9.

22 A. All right.

23 Q. And that Officer O'Malley in that location yells, orders  
24 the driver of the SUV to show his hands.

25 A. Okay.

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1 Q. The driver's right-hand window is down. The driver makes  
2 eye contact with Officer O'Malley. The driver looks in his  
3 mirrors, which would give him a view of the vehicles, the  
4 police vehicles behind him. And then the driver of the SUV  
5 does not raise his hands as ordered by Officer O'Malley but  
6 instead begins to drive his vehicle forward.

7 A. All right.

8 Q. And at that point, Officer O'Malley makes a decision to  
9 shoot to stop the driver of the SUV. Do you have those facts  
10 in mind?

11 A. I do.

12 Q. Assuming those hypotheticals, how would that course of  
13 action fit within the training that you would give police  
14 officers as of the use of lethal force?

15 A. Again, based on the information that Officer O'Malley has  
16 amassed during the pursuit, shots fired, the initial contact,  
17 now in the alley, the individual driving the vehicle, not being  
18 compliant, he doesn't know where the gun is, the individual is  
19 still considered a fleeing felon. It's appropriate at that  
20 point to use deadly force.

21 Q. And what would be the reasons that you think, in your  
22 opinion as you were training police officers, would be  
23 appropriate for Officer O'Malley, given that factual situation,  
24 to fire at the driver in an attempt to use lethal force?

25 A. Well, you have --

1 Q. Strike that. I said to attempt to use lethal force. I  
2 misstated. To stop the threat.

3 A. You have a first-party threat. I teach the officers that  
4 when someone in a high-risk type situation starts looking at  
5 you and looking where other officers are, they're trying to  
6 orientate themselves. So if I'm looking straight ahead, I'm  
7 not orientating myself. But as soon as I'm looking at you, I'm  
8 orientating myself, because now I know where you are and I can  
9 take a shot at you.

10 The same as looking in the mirrors. Again, if there  
11 were officers running up to the rear of the vehicle, I'm going  
12 to know that. So I'm orientating myself to them. So I have  
13 both a first-party threat, a second-party threat, and then the  
14 fleeing felon rule.

15 Q. Let's talk about the first-party threat. And this time, in  
16 the hypothetical that I'm giving you, the officer would have no  
17 reason to believe that the gun is anywhere else other than  
18 inside the vehicle still with the driver. Do you have that in  
19 mind?

20 A. I do.

21 Q. And the officer has ordered the individual to raise his  
22 hands and the individual is not complying.

23 A. All right.

24 Q. Does that pose a first-party threat as you talked about a  
25 threat to the officer himself?

1 A. Certainly.

2 Q. Why?

3 A. Well, I don't know where the gun is, and I can't see the  
4 hands and that's a bad combination.

5 Q. You talked before about the training that you give officers  
6 as to whether they should wait to see a gun actually pointed at  
7 them before they would fire.

8 A. That's correct.

9 Q. Does that apply to this situation?

10 A. Yes, particularly with the eye contact. Now I know he's  
11 orientating himself to me.

12 Q. You're saying that the individual, when the officer can't  
13 see his hands, he's refusing to show his hands, could very well  
14 have his hands on a gun at that moment?

15 A. That's correct.

16 Q. And how difficult would it be for an individual, if he had  
17 his hands on a gun at that moment, to raise it up to shoot and  
18 perhaps kill my hypothetical officer?

19 MR. GALIPO: I'll object as assuming facts not in  
20 evidence, that the individual had his hand on a gun when  
21 Officer O'Malley shot.

22 THE COURT: I think your question is posing as an  
23 answer, or posing an answer. I'll sustain.

24 Q. What the officer would reasonably believe at that time as  
25 opposed to what the individual was actually doing, would you

1 train an officer that he should have in mind that that  
2 individual may very well have his hand on his gun at that time?

3 A. I certainly would.

4 Q. Why?

5 A. Because I don't know where the gun is, and I don't know  
6 where the hands are, and I have the past history of the  
7 individual shooting police officers. And now I have the  
8 individual making eye contact with me. And I know the lag time  
9 statistics that I train the offices in and the officers have  
10 been trained in. That, again, the best they can do is a tie.

11 Q. Okay. And you had trained the officers that in that  
12 situation it would be appropriate to use lethal force?

13 A. I would.

14 Q. You also mentioned in terms of this hypothetical situation  
15 the fleeing felon rule also may come into play?

16 A. Yes, sir.

17 Q. Explain that, please.

18 A. The vehicle's starting to move forward. And nothing says  
19 that if Officer O'Malley doesn't take the shot at that point  
20 that the vehicle's going to now speed away and continue a  
21 pursuit that again may injure or kill someone.

22 Q. Let me ask you a question about that: In the hypothetical  
23 the vehicle starts to move forward, but at the time the officer  
24 fires his shot the vehicle's not moving very fast. Does that  
25 matter at all in your analysis?

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1 MR. GALIPO: I'll object as to vague as to the speed  
2 of vehicle. "Not very fast."

3 THE COURT: Overruled.

4 A. Makes no difference.

5 Q. Let's say very slowly.

6 A. Makes no difference.

7 Q. Let's say under five miles an hour.

8 A. Makes no difference.

9 Q. Why not?

10 A. Because, again, if he doesn't take the shot at that point,  
11 the vehicle may totally speed off and we lose the vehicle and  
12 start the pursuit all over.

13 Q. So --

14 MR. GALIPO: I apologize, your Honor. I'm going to  
15 object to the characterization of the fleeing felon rule as  
16 calling for a legal conclusion by this witness as this question  
17 and answers are stated.

18 THE COURT: As I understand it, the witness is  
19 describing what he believes are good police practices. There  
20 was a witness who testified on that subject during the  
21 plaintiffs' case. And this is a witness that's testifying on  
22 that subject in the defendants' case. As I do not understand  
23 him to be giving legal opinions in any way, however, but solely  
24 to describe what he believes is proper police conduct under the  
25 practices and training that they give officers.

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1 MR. GALIPO: Thank you, your Honor.

2 THE COURT: Okay.

3 BY MR. LOEBS:

4 Q. Is that correct, Mr. Cameron, that that's what you were  
5 talking about, how you train officers with respect to the  
6 principles that we've been talking about?

7 A. Yes, sir, it is.

8 Q. Now, again --

9 THE COURT: I just want to stop you for a second.

10 MR. LOEBS: I'm sorry.

11 THE COURT: It's 2 o'clock. How long do you expect to  
12 be on your examination on direct of Mr. Cameron? You're in  
13 Larch Way.

14 MR. LOEBS: All right.

15 THE COURT: You haven't gotten to Officer Paine yet.

16 MR. LOEBS: Yes.

17 THE COURT: How long is that going to be?

18 MR. LOEBS: Actually, if I can confer -- not that I  
19 would be trying to take the remaining time, but I would like to  
20 just check to see what our time is in terms of -- I have a  
21 sense now without doing that check, but based on a check, I  
22 might have to amend.

23 THE COURT: You may go off the record for a moment  
24 with Miss Lucero and/or your unofficial timekeeper, Miss  
25 Bernstein.

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1 (Off the record)

2 MR. LOEBS: Your Honor, probably about a half hour or  
3 so, maybe a little bit more.

4 THE COURT: Or so.

5 MR. LOEBS: Yes.

6 THE COURT: The reason I ask, the reason I ask is  
7 because we're trying to figure out how much time we're going to  
8 need for the close of the evidence, if you complete your  
9 examination, Mr. Galipo might have some idea or a better  
10 idea -- he hasn't done his cross-examination yet, but he'd have  
11 a better idea of whether he is or isn't going to call a  
12 rebuttal witness based on whatever happened today and/or  
13 earlier.

14 If in fact the parties are able to conclude the  
15 evidence relatively early on Thursday, we could start the  
16 arguments on Thursday. They can include Friday, if that works  
17 for the jurors. I can instruct the jurors. They can begin  
18 their deliberation on Friday. Proceed for as long as they  
19 wish. And not knowing when they would go out or how that would  
20 work, also coming back on Monday, if necessary. But at least  
21 be a lot closer to our schedule of this week. Then it was --  
22 looking at the beginning of this morning, which was a fairly  
23 gloomy prediction as far as our schedule, so that's what I'm  
24 trying to see at this time.

25 Now, we do have a calendar at 2:30. Not going to be



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1 with you. It's going to be with all these other people that  
2 have their cases scheduled at 2:30.

3 When did we come out, Miss Lucero, from the break?

4 DEPUTY CLERK: 12:43.

5 THE COURT: Well, it would be kind of a long stretch  
6 for the reporter if she could hold out at least for a period  
7 beyond now, and if Miss Lucero can deal with that and still get  
8 ready for the other conference -- calendar then.

9 DEPUTY CLERK: I'm fine.

10 THE COURT: How about the reporter?

11 COURT REPORTER: I'm fine.

12 THE COURT: Everyone is willing to contribute to the  
13 effort, so why don't we at least get you going as far as you  
14 can on Larch and with whatever the next set of questions are.

15 MR. LOEBS: Thank you, your Honor.

16 THE COURT: Okay. Do you want someone to tell you  
17 where you are?

18 MR. LOEBS: I think I have my note.

19 BY MR. LOEBS:

20 Q. With respect to the -- I think it was the last area I was  
21 talking about, that has to do with the speed of the vehicle  
22 moving forward as that applies to the fleeing felon rule?

23 A. That's correct.

24 Q. And your understanding as to how you teach police officers  
25 and how you instruct the POST and how you've written the

1 Learning Domains regarding the use of force and lethal force.

2 Do you have that in mind?

3 A. Yes, sir, I do.

4 Q. Does the speed at which the vehicle was beginning to move  
5 forward, after the officer had instructed the individual to  
6 show his hands and he failed to do so, matter in terms of your  
7 analysis of how that works with the fleeing felon rule?

8 A. No, not in my opinion.

9 Q. Why not?

10 A. It just doesn't. Like I mentioned, he's shown total  
11 disregard, the driver of the SUV shown total disregard to the  
12 officers' lives and for the lives of the citizenry, and you  
13 won't want that pursuit to start again.

14 Q. Should the officer wait until the vehicle is going faster  
15 before he takes a shot? Is that what you would have trained  
16 him to do?

17 A. No, it's easier to hit someone in a slow moving vehicle  
18 than in a fast moving vehicle.

19 Q. And the fact that obviously the engine is running, the keys  
20 are the engine, and the car is moving forward, does that affect  
21 your opinion as to whether an officer in this position might  
22 think a vehicle would be fleeing a scene?

23 A. Yes, sir.

24 Q. Why so?

25 A. Again, engine running, vehicle's moving, and the driver's

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1 totally disregarding the orders given by the officer.

2 Q. Let's say in this hypothetical that there may or may not  
3 have been a vehicle that somewhat or was partially blocking the  
4 exit on Larch. Would that matter in your analysis?

5 A. No, sir.

6 Q. Why not?

7 A. Well, again, an SUV is a powerful vehicle. And depending  
8 on the size of the other vehicle can certainly without remorse,  
9 because there's no remorse shown, drive right through that  
10 vehicle and move it out of the way.

11 Q. So in terms of your opinion, would you say that it would be  
12 reasonable for the officer, based on how you would instruct the  
13 officers to think, that if that vehicle continued and left  
14 Larch, that it might be a potential threat of serious bodily  
15 injury or harm to others?

16 A. Certainly. The same thing can happen that just happened.

17 Q. Now, I want you to assume in this hypothetical that at the  
18 time that this officer's making this decision and chooses to  
19 make this shot, and it's just one shot, that other officers in  
20 the vehicles that are indicated in this diagram are also in  
21 Larch. And, that they've taken -- just as or just at the time  
22 that this shot is fired by Officer O'Malley, other officers are  
23 attempting to take cover behind various vehicles. Do you have  
24 that in mind?

25 A. I do.

1 Q. And then officers that are, while they're attempting to  
2 take cover, that they perceive this shot as being a shot coming  
3 from the driver of the SUV as opposed to a police officer.

4 A. All right.

5 Q. Do you have that in mind?

6 A. I do.

7 Q. And that perceiving of the other officers then, what they  
8 believe to be returned fire, fire and shoot the -- attempting  
9 to shoot the driver of the SUV.

10 A. All right.

11 Q. And the shot that was actually this officer's shot, they  
12 believed to be the shot from the driver of the SUV.

13 A. All right. I've got that in mind.

14 Q. Having those facts in mind, how, if at all, does that  
15 relate to how you would train officers as to the reasonableness  
16 of the officer's taking the initial shot?

17 A. The officer taking the initial shot?

18 Q. Yes.

19 A. It wouldn't change anything.

20 Q. Why not?

21 A. Because you'd still have the same threat level.

22 Q. When you talk about hindsight 20/20, how does that relate  
23 to the situation you just described?

24 MR. GALIPO: I apologize. I'm going to object to the  
25 question as vague and ambiguous as to what Officer O'Malley was

1 aware of at the time.

2 THE COURT: I'm sorry, what's the ground of your  
3 objection?

4 MR. GALIPO: The hindsight 20/20.

5 MR. LOEBS: Speaking objection, your Honor. Object to  
6 his making a speaking objection.

7 THE COURT: What's the basis?

8 MR. GALIPO: It was unclear in the hypothetical what  
9 Officer O'Malley was aware of at the time he took the shot with  
10 regards to the other officers.

11 THE COURT: It doesn't sound like a hypothetical.

12 MR. GALIPO: That's why it was unclear.

13 THE COURT: I'll just sustain the objection. It  
14 sounds argumentative, the question.

15 You're talking about police practice. We're not  
16 talking about making factual determinations here. There have  
17 been a number of questions asked and answered that are  
18 essentially questions of fact for the jury. Not put in the  
19 form of expert opinion. I'm going to sustain that last  
20 objection.

21 BY MR. LOEBS:

22 Q. In the training that you would do with respect to police  
23 officers -- I'll strike that.

24 THE COURT: In other words, if this witness has  
25 particular knowledge beyond what a layperson may have, someone

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1 who's in the -- involved in police practices and training and  
2 experience, he may be able to add something to a question of,  
3 for example, whether a car going the wrong way down a street is  
4 dangerous or not. But it's unlikely that he can, the way  
5 you've asked it.

6 In other words, all you're asking him is what a juror  
7 can find themselves without expert input: Is it dangerous to  
8 run a red light, is it dangerous to go the wrong way on a  
9 one-way street? Yes. You'll have to ask him things that go  
10 particularly to his expertise, and if there's something that he  
11 knows that the average person wouldn't know, then you can  
12 elicit that. Even though it may sound in the first instance  
13 like somebody would know as much as the witness on that  
14 subject.

15 BY MR. LOEBS:

16 Q. Mr. Cameron, with respect to the training that you do and  
17 the expertise you have with respect to officers in shooting  
18 situations, what sort of expertise do you have in training  
19 officers based on officers in shooting situations?

20 THE COURT: His expertise is not an issue. Your  
21 questions are. Okay. I'll sustain per the last one.

22 Q. With respect to your work and your training of police  
23 officers, as to how you would instruct them as to when they can  
24 use lethal force, when you are training them as to how to  
25 evaluate when lethal force is or is not appropriate, you

1 mentioned something before about 20/20 hindsight in the  
2 training that you give.

3 A. Yes, sir.

4 Q. And the relevance of that is what?

5 A. That the officers don't need to second-guess themselves if  
6 they find out something after the fact. When they make the  
7 shooting decision, in a deadly force situation, after -- based  
8 on the information they had at that precise moment.

9 Q. Now, I want to ask you some additional questions with  
10 respect to the hypothetical that I just gave you. I want you  
11 to assume that when the officer did make this shot, that before  
12 making the shot, he didn't go out over the radio and say, on  
13 his PIC radio, I'm about to shoot. Have that in mind?

14 A. I do.

15 Q. How would that fit within the way in which you would train  
16 police officers?

17 A. I've been doing this 38 years, and I've never told an  
18 officer that they do that, that I'm taking the shot. Unless  
19 it's a sniper. If you have a sniper situation, again, but  
20 other than that, no.

21 Q. Now, hypothetically again, with respect to the factual  
22 scenario I just described, let's say that the officer who fired  
23 that shot and then moved his location for a different area,  
24 I'll describe it as the rear of this SUV on 620, and that at  
25 some point after, his partner, who was driving the vehicle,

1 also approached in this generally area around 618 on this  
2 street, and that the officer who fired the first shot did not  
3 then say to his partner, Hey, you heard those shots fired, I  
4 was the one that fired that first shot, just wanted to let you  
5 know that, and he didn't do that during the course of this  
6 incident, how would that fit with your understanding of the  
7 propriety of the training of police officers?

8 A. I think you're in a very critical situation that's rapidly  
9 evolving and you don't want to spend time saying, Yeah, it was  
10 me that took that shot and I moved from that vehicle over to  
11 this vehicle. You have to focus on the individual that's in  
12 the SUV.

13 Q. Now I want to continue with the hypothetical, and at this  
14 point I want to focus on the other officer. And let's say,  
15 hypothetically, that the other officer had pulled the vehicle  
16 up somewhere on Larch, perhaps pointing into Laguna somewhat,  
17 and got out of the vehicle, and he continued up the south end  
18 of Larch and at some point crossed over to the north side and  
19 put himself in position around 618, which I'll show you in more  
20 detail. Turning to Exhibit V5-02. And the -- this other  
21 officer puts himself in approximately the position of about 618  
22 on the sidewalk where I've pointed to. Do you have that in  
23 mind?

24 A. I do.

25 Q. Actually before I get to that, we're not talking about that



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1 officer yet, at 618.

2 A. All right.

3 Q. I want to ask you some questions about the driver of the  
4 SUV and the commands being given by the other officers.

5 A. All right.

6 Q. Let's say, hypothetically, that, again focusing on the  
7 driver of the SUV, that after the shots that I talked about  
8 were fired, the driver of the SUV opens the door and exits the  
9 vehicle.

10 A. All right.

11 Q. And that officers, after he gets out of the vehicle, are  
12 yelling at the individual to show his hands and get down on the  
13 ground.

14 A. All right.

15 Q. And in the hypothetical we have multiple officers yelling  
16 those commands, "Raise your hands, get your hands up, get down  
17 on the ground." Do you have that in mind?

18 A. I do.

19 Q. Now, do you have -- and then the individual at some point  
20 does have his hands up, sometimes they're down, walks to the  
21 back end of the SUV, does not get on the ground, instead takes  
22 off his t-shirt and throws it, and at some point then starts to  
23 walk back towards the SUV, towards the open door of the SUV.

24 Do you have that in mind?

25 A. I do.

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1 Q. And, hypothetically, let's say during that exchange, the  
2 interchange where the individual gets out of the SUV, and is  
3 being ordered to put his hands up, puts them up for a moment,  
4 brings them down, doesn't leave them up, takes off his shirt.  
5 Assume that no officer ever ordered him to take off his shirt.  
6 Perhaps assume also that he turns around in a 360. Officers at  
7 this time are yelling at him to get on the ground and put his  
8 hands up. Do you have that in mind?

9 A. I do.

10 Q. Now, with respect to the commands that officers give in a  
11 felony traffic stop, do you have some expertise as to that?

12 A. I do.

13 Q. Ordinarily, how should a felony traffic stop proceed if  
14 things go as to plan, with the police officer?

15 A. If everything goes the way the police officer planned, the  
16 person that they're ordering out of the vehicle and down on the  
17 ground does everything they say, and usually one officer will  
18 give commands. But if the people or persons aren't doing what  
19 the officer says, there's no problem. In other words, it's not  
20 inappropriate for multiple officers to give commands because  
21 sometimes the suspect or individual will key in on one  
22 particular tone of voice. And then that person can take over  
23 the commands. But until that time, if that time happens at  
24 all, multiple officers can give commands as long as they're not  
25 giving conflicting commands. In other words, "Put your hands

1 up, get down on the ground, get down on your knees, put your  
2 hands behind your head." Those kinds of things. As long as  
3 they're consistent, it's not a problem.

4 Q. In terms of conflicting commands, if the commands would be  
5 yelling, the individual was taking off his shirt, walking back  
6 by the SUV, were "Get on the ground and get your hands in the  
7 air," do you have that in mind?

8 A. I do.

9 Q. Are they conflicting?

10 A. No.

11 Q. Why not?

12 A. They're "Get down on the ground; put your hands up", or,  
13 "Get your hands up; get down on the ground." They're  
14 synonymous.

15 Q. How is that synonymous? Can you get down on the ground and  
16 have your hands up?

17 A. Yes, usually you tell a person to get down on the ground  
18 and keep their hands up.

19 Q. Why is that important for an officer to have an individual  
20 do that?

21 A. Number 1, I've isolated the hands so I can see what the  
22 hands are doing. And Number 2, I'm going to cut down the  
23 mobility and isolate the individual by putting him on ground.

24 Q. You said when the individual is following the instructions  
25 of the officer, that it may be appropriate to have one officer

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1 issuing the commands when they're following the instructions?

2 A. Yes, that's correct.

3 Q. The hypothetical I've just described with the individual  
4 getting out of the SUV, hands in the air some of the time,  
5 sometimes down; add further in the hypothetical at some point  
6 he puts his hands to his waistband, perhaps either pulling his  
7 pants down or pulling out his belt; and in addition, we talked  
8 about the taking off the shirt, would that be in your view,  
9 based on the training you do of police officers, compliant with  
10 the commands of the police officers?

11 A. No, not with what the police officers are saying.

12 Q. And why would that not be compliant?

13 A. Well, if you're telling him to put his hands up and get  
14 down on the ground and he's moving his hands, reaching down to  
15 the waistband as you described, reaching down to the pant area,  
16 he's not complying with what the officers are asking him to do.

17 Q. So if the officer says "Hands up," it doesn't mean hands up  
18 once and you can do what you want with them?

19 A. No, it's, "Put your hands up, put your hands up over your  
20 head."

21 Q. And hand -- over the head, why is that important?

22 A. You like the hands as far away from the waistband, because  
23 obviously the area most readily available for secreting a gun  
24 are around the waistband area.

25 Q. Now, in terms of the -- again, this is the same

1 hypothetical in terms of this individual and the driver's  
2 conduct beforehand before he gets to Larch Way, in terms of  
3 this individual as he gets out of the SUV and lowers his hands  
4 to the waistband, what in terms of your training of police  
5 officers would that represent in terms of the level of threat,  
6 if any, to a police officer that perceives that conduct?

7 A. Again, that's a higher threat level because the hands  
8 aren't where I want them and they're moving to an area where  
9 weapons are most readily placed. And again, from the training  
10 I would tell the officers at that point they better start  
11 thinking about making a shooting decision because it takes  
12 them, best case, a second with the gun in their hand and for  
13 the suspect knowing that they're going to go for a gun to shoot  
14 the officer, it takes two-thirds of a second. So you're going  
15 to be playing catch up.

16 Q. So in terms of the training that you would provide police  
17 officers, this individual who had fired at police officers  
18 before, they don't know where the gun is and they see him lower  
19 his hand to his waistband, would you train an officer that it  
20 could be appropriate to shoot at that time?

21 A. I would.

22 MR. GALIPO: Object as leading; also incomplete  
23 hypothetical.

24 THE COURT: Overruled.

25 Q. I'm sorry, your answer?

1 A. I would.

2 Q. And I also asked you some questions about the individual  
3 taking off the shirt. How would that relate to in terms of  
4 those movements of the hands when the officers are telling him,  
5 "hands in the air, get on the ground," how would that relate to  
6 how you would train officers with respect to that threat level?

7 A. Again, if the hands are going down to the waistband area,  
8 whether grabbing the shirt or grabbing the pants or whatever  
9 they're doing, that's where guns are kept. And, again, you're  
10 going to play catchup if you don't make the shooting decision.

11 Like I mentioned before, I can't make the decision for  
12 you. But at least intelligently, I can educate you to make the  
13 decision for yourself.

14 Q. Okay. Now, I want to further with this hypothetical, let's  
15 say the individual who had walked some distance away from the  
16 SUV either turns around or backs up and goes back to the open  
17 area of the driver door.

18 A. All right.

19 Q. In terms of the threat level that you would train officers,  
20 what would that represent in your mind?

21 A. Again, it's a high threat level. If the individual in your  
22 scenario or your hypothetical backed up, and I could still see  
23 the hands, okay, I'm going to be very cautious, but I'm not  
24 going to shoot at that point. But if the person walks towards  
25 the vehicle and they're body's blocking the hands, then I'm

1 going to start thinking about making a shooting decision.

2 Q. Why would you train officers that it would be a concern to  
3 them that an individual who's out of the car, you can't see a  
4 gun in his hands at that point, is now turning back to the open  
5 door of the vehicle?

6 A. Because you don't know where the gun is within the confines  
7 of the vehicle.

8 Q. And assume further that the officers are yelling at the  
9 individual as loud as they can to get on the ground and keep  
10 his hands up. How would that -- and instead of doing that, he  
11 returns back to the open driver's door area?

12 A. Again, you have a high threat level because the person's  
13 not being compliant and you have the past history of what the  
14 person's done already, and you don't know where the gun is and  
15 you don't know what their intention is.

16 Q. Let's assume that although the individual engaged in the  
17 conduct we just described, that, in the hypothetical, that none  
18 of the officers fired while the individual's outside of the SUV  
19 at this point.

20 A. Okay.

21 Q. And he's actually allowed to return to the open door area  
22 of the SUV. Do you have that in mind?

23 A. I do.

24 Q. And now we're going to talk about the other officer,  
25 Officer Paine, hypothetically gets in a location I described

1 around about 618 on the sidewalk.

2 A. All right.

3 Q. Do you have that in mind?

4 A. I do.

5 Q. And in that location, that say, hypothetically, the  
6 individual somehow seats or positions himself in the SUV with  
7 his chest essentially facing out towards the officer.

8 A. All right.

9 Q. And the officer sees the individual lower himself in the  
10 SUV in the manner I just described. Do you have that in mind?

11 A. I do.

12 Q. In terms of the threat level that would pose, in terms of  
13 an officer's decision to shoot, what opinion would you have  
14 regarding that?

15 A. Well, the person lowering themselves down and not knowing  
16 where the gun is poses a threat level. If I can see the hands  
17 at that point, I'm okay with that. And until the individual  
18 starts moving the hand where I can't see them.

19 Q. Now, with respect to the training you give police officers,  
20 is it possible that you could see the individual's hands, but a  
21 weapon could be merely inches from their hands?

22 A. That's correct.

23 Q. And in that type of situation, could just seeing the hands  
24 be enough to know that there's not a sufficient threat level?

25 A. Well, you have a threat level. But threat level coupled



Cameron - Direct

1 with some movement would be what I tell the officer. I mean,  
2 be ready at that point. Don't be compliant, thinking the  
3 person is going along with what you're asking them to do.

4 Q. And in terms of the individual returning back and going  
5 back and sitting somehow inside or leaning inside of the SUV,  
6 where the officer believed the gun to still be because they  
7 haven't seen it anywhere else, what does that do in terms of  
8 the officer's threat level at that point?

9 A. If the person's facing the interior of the vehicle, and in  
10 that direction, again, I say better think about that shooting  
11 decision, and you better think about that tie.

12 Q. The "tie" meaning that the time?

13 A. Right.

14 Q. Continue with the hypothetical and the individual's now  
15 seated, and then the individual turns to the left towards the  
16 interior of the vehicle, with both of his hands. Do you have  
17 that in mind?

18 A. I do.

19 Q. With respect to the training that you would give police  
20 officers as to the use of lethal force, what were you training  
21 the officer at that point as to whether the use of force at  
22 that time would be justified?

23 MR. GALIPO: I apologize.

24 A. I'd tell him it was justified.

25 MR. GALIPO: Object as an incomplete hypothetical,

1 whether the hands are visible and the speed of the turning.

2 THE COURT: I'll overrule. And that could be a  
3 subject of cross-examination.

4 A. I would tell him at that point it would be appropriate to  
5 use deadly force.

6 Q. Why?

7 A. Because again, like I mentioned, it doesn't take that long  
8 to obtain a gun and turn and shoot the gun. And again, the  
9 officer's going to play catch up because they're thinking, you  
10 know, exactly what is he doing, and he can't wait to see the  
11 gun and the actions are being consistent with the actions the  
12 individual could use to produce the gun.

13 Q. Let's say, hypothetically, and for whatever reason the  
14 officer hesitates and he doesn't fire at the moment the  
15 individual first turns to the left into the interior of the  
16 vehicle. Do you have that in mind?

17 A. I do.

18 Q. And the individual comes back out and, in other words,  
19 turns back around and the officer can see his hands?

20 A. I have that in mind.

21 Q. And during this whole movement in the vehicle, the officers  
22 are continuing to yell in an even louder voice, "Get on the  
23 ground, keep your hands up." Do you have that in mind?

24 A. I do.

25 Q. And that then the individual is sitting there, somehow

1 positioned inside the SUV, again turns to the left, and this  
2 time the officer loses sight of the left hand, perhaps the  
3 right as the individual turns. Do you have that in mind?

4 A. I do.

5 Q. In terms of the officer's decision to use lethal force at  
6 that time, how would you train officers in that regard?

7 A. I train at that point they would be justified in using  
8 lethal force and they better not wait until the person turns  
9 back again. In fact, if I found out about turning back again,  
10 I'd bring him back for a critique.

11 Q. You'd what?

12 A. Bring him back for a critique.

13 Q. Why is that?

14 A. Because they basically put themselves in jeopardy, put  
15 their partners in jeopardy, put the citizenry in jeopardy  
16 and --

17 Q. And you say "back for a critique," you're saying that would  
18 not only be an appropriate use of force, but you think it would  
19 be inappropriate not to?

20 A. Exactly.

21 Q. And when you were training police officers, is that part of  
22 what you're trying to train them to do, to make decisions like  
23 that?

24 A. Oh, yes.

25 THE COURT: Are you at a breaking point?

1 MR. LOEBS: Yes, your Honor.

2 THE COURT: And how much do you estimate you have left  
3 then?

4 MR. LOEBS: I think maybe 15, 20 minutes, but I might  
5 be able to -- I might be able to reduce that.

6 THE COURT: All right. Ladies and gentlemen, we're  
7 going to break for the calendar that's starting at 2:30 or just  
8 after 2:30 at this point. Please remember my admonition. We  
9 are closer and closer to the end of the case. Tomorrow I'll  
10 give you a better idea then what's happening. I'm going to  
11 meet briefly with counsel after you leave this afternoon.  
12 Thank you.

13 (The jury exited the courtroom)

14 (In open court; jury not present)

15 THE COURT: Mr. Cameron, you may step down if you  
16 like. I'll see you tomorrow at 9 o'clock.

17 THE WITNESS: 9 o'clock?

18 THE COURT: 9 o'clock.

19 THE WITNESS: Thank you.

20 THE COURT: The jurors have left. I want to go off  
21 the record and have counsel come up to the podium so I can  
22 discuss with you what our situation is, and let the court  
23 reporter -- I guess we'll be changing the guard, right? Let  
24 her do whatever she needs to do to make that arrangement.

25 (Adjourned until September 20, 2007, @ 9:00 a.m.)

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CERTIFICATE OF REPORTER

I, Connie Kuhl, Official Reporter for the United States Court, Northern District of California, hereby certify that the foregoing proceedings in Case No. C 04-5459 (MMC), Marylon Boyd, et al., City and County of San Francisco, et al., were reported by me, a certified shorthand reporter, and were thereafter transcribed under my direction into typewriting; that the foregoing is a true record of said proceedings as bound by me at the time of filing.

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Connie Kuhl, RMR, CRR

Thursday, December 20, 2007